

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 17

9 Transcript of Jury Trial before The Honorable
10 James O. Browning, United States District Judge, Las
11 Cruces, Dona Ana County, New Mexico, commencing on
12 February 21, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks, Mr.
16 Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,
17 Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,
18 Ms. Justine Fox-Young, Mr. Ken Del Valle.

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1 THE COURT: All right. We'll go on the
2 record. I appreciate everybody being here and on
3 time and ready to go.

4 A couple of things I have. I think I made
5 a decision on the 304 and 305. One is a transcript
6 and the one is the other. The one thing that I
7 don't think was pointed out in the briefing, I said
8 that the Government had now presented admissible
9 evidence but I still thought it was a call that I
10 needed to give some thought to.

11 The thing that occurred to me overnight
12 last night, I thought about it last night, then
13 thought about it some more this morning, that I
14 think puts me over the top on this one is that there
15 has been testimony that the rules of the SNM
16 organization are that if someone is disrespected,
17 they are ordered to take care of it. And so it
18 seems to me that the evidence could be -- a
19 reasonable jury could infer beyond a reasonable
20 doubt that Mr. Baca was following orders at the time
21 that he killed Mr. Velasquez. And so I think that,
22 combined with the other evidence that the Government
23 points to in its briefing, which is admissible
24 evidence, some of which is already in, some of which
25 will come in, is sufficient to allow the portions of

1 the tape that deal with the Velasquez killing and
2 Mr. Baca's statements about it to come in. So I'm
3 going to overrule the objection to that and allow
4 the Government to put that on.

5 I don't have anything written on what Ms.
6 Duncan handed to me last night, but I'll give
7 everybody a heads-up. I do agree with many of the
8 things that Ms. Duncan is pointing out. There are
9 some statements that seem to me to be assertions of
10 other people, not Mr. Baca. And there is no
11 indication that Mr. Baca adopted those statements.
12 So bear with me as I try to get you something in
13 writing so that you can make some revisions. But I
14 did think that many of Ms. Duncan's objection on
15 that were well-taken, and there needs to be some
16 cleaning up of those.

17 Ms. Duncan's handwritten piece of paper I
18 think probably should be filed. So I'm going to
19 file it as Clerk's Exhibit P, if there is no
20 objection to that, rather than putting it into
21 CM/ECF. If that's all right with everybody, we'll
22 put it as Clerk's Exhibit P, so that's where that
23 handwritten document will go.

24 MR. BECK: No objection, Your Honor.

25 THE COURT: How about y'all? Do y'all

1 have anything that y'all need to discuss this
2 morning? Is there anything I can do for you? Mr.
3 Castellano, Mr. Beck?

4 MR. CASTELLANO: No, Your Honor.

5 THE COURT: All right. Ms. Duncan -- one
6 thing before you start, Ms. Duncan, I am shipping
7 back -- I kind of wish now I'd done it yesterday,
8 but I continue to want to work on them -- but we did
9 ship back last night probably the first 15, 16 pages
10 of jury instructions, and this morning we shipped
11 them all back. So they're being typed this morning.
12 So you should get a clean set before you leave
13 today. I hope that's the case, for your sake and my
14 sake as well.

15 I think everything is in there. I'm not
16 quite comfortable with the guts of it, the RICO, but
17 I think it's all in there. I really this weekend
18 spent the bulk of the time trying to work through
19 the defendants' objections, which I understand were
20 mostly -- I think they were mostly Mr. Lowry's, if I
21 recall, so I spent a lot of time on those. I think
22 I got everything in there, but it probably is time
23 that everybody begin to really spend some time with
24 them. I have a feeling -- and y'all don't have to
25 admit it or not -- that the jury instructions were

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1 written by Ms. Sirignano, and so there is a lot of
2 stuff in there that I kind of think y'all aren't
3 going to want and need. And if you could tell me
4 that, start pruning this stuff out, it might help us
5 as we get a little closer to it.

6 But anyway I'll have you a set, I hope
7 today. I'm losing my legal assistant up in
8 Albuquerque for a wedding on Friday so I'm going to
9 try to front-end having her type, so I don't have to
10 pull law clerks off yet to start typing those. But
11 you should get a clean set today, and you might
12 start giving me some thoughts. If there are some
13 defenses that you're not going to raise, just tell
14 me and we can pull them out. And if there's some of
15 these instructions that are getting too complicated
16 because it's just too long of a trial, then we can
17 start pulling those out. But start giving it your
18 thoughts.

19 All right, Ms. Duncan.

20 MS. DUNCAN: I just wanted to let the
21 Court know, when we left yesterday there were two
22 transcripts that we had not yet conferred with the
23 Government on redactions, and so Mr. Lowry sent
24 those to Ms. Armijo this morning, and that is
25 Government's Exhibit --

1 MS. ARMIJO: I didn't receive it.

2 MS. DUNCAN: You haven't seen it?

3 MS. ARMIJO: I haven't received that.

4 MS. DUNCAN: I'll print out his email. He
5 cc'd me. It's Government's Exhibit 418-19 and
6 420-21. Ms. Armijo said she didn't get it, so I'll
7 print out that email and give it to her. These are
8 telephone calls that I have some brief portions that
9 we agree are arguably relevant to the Marcantel
10 charge. But then there's a lot of historical
11 talking about it, so-and-so, back in the day, and
12 we're asking the Court to redact those long
13 discussions about what other people are doing and
14 what other people have said.

15 THE COURT: Well, when you give to it Ms.
16 Armijo, can you give it to me, as well, so that I
17 can see if I can stay ahead of y'all --

18 MS. DUNCAN: Yes. I'll print that out
19 right now.

20 THE COURT: -- let the Government redact
21 those things if I decide it needs to come out.

22 Mr. Villa.

23 MR. VILLA: Just briefly, Judge, a couple
24 of things. The Government indicates they think they
25 may rest Friday, Thursday. I know that's a moving

1 target, but just so that the defense could fill the
2 time for planning purposes, if we can just keep
3 abreast as we're getting closer to that time line.

4 And then in terms of --

5 THE COURT: Let me just ask, because I've
6 only heard things indirectly. I understood on
7 Friday, as y'all were making some plans on Friday, I
8 thought that Mr. Villa needed to have his witnesses
9 here on Thursday afternoon. I thought y'all might
10 be resting in that area. Is that still what you're
11 thinking, or has it shifted over to Friday?

12 MR. BECK: It's possible Thursday
13 afternoon. I would say probably 50/50 whether it's
14 Thursday afternoon or Friday morning. We're hoping
15 Thursday afternoon, but it's possible with these
16 recordings, it could shift into Friday.

17 THE COURT: Okay. All right.

18 MR. VILLA: The defense teams are working
19 together just to juggle witness availability, but we
20 don't want to not have our people here and the
21 Government rest.

22 And then in terms of length of closing
23 arguments, I know it was discussed at the pretrial,
24 and I -- instead of appearing for that I appeared in
25 Orlando, Disney World. But I think that we asked

1 for 45 minutes, and I'm wondering if the Court might
2 give us a little more leeway after we've now sat
3 through four weeks of trial, in terms of time and
4 when you might want to know that.

5 THE COURT: Well, let me see what
6 revisions need to be made.

7 Ms. Armijo, you had two and a half. Is
8 that still what you're looking at?

9 MS. ARMIJO: I think it will depend on the
10 length of the defense. I think we still want to
11 reserve that.

12 THE COURT: Still what?

13 MS. ARMIJO: We still want to reserve
14 that.

15 THE COURT: How about you, Ms. Jacks? You
16 were looking at an hour and a half. Are you still
17 looking at an hour and a half?

18 MR. JACKS: I'd like to cut it down, but
19 for right now I'd like to say that.

20 THE COURT: How about you, Ms. Duncan?

21 MR. LOWRY: She stepped out to make
22 copies.

23 THE COURT: You had indicated an hour and
24 a half max. What are you looking at now?

25 MR. LOWRY: Ms. Duncan is going to do the

1 closing. But we'd reserve that. I'd be surprised
2 if it was that long.

3 THE COURT: Mr. Maynard, you had 30 or 45
4 minutes.

5 MR. MAYNARD: I think, Your Honor, if we
6 could have something closer to like an hour.

7 THE COURT: Well, I'll certainly work with
8 everybody as we revise this upward. But here's the
9 reality, I think as we revise this up, there is no
10 way we can get all the closings in in a day. I know
11 everybody likes to come in and do closings and get
12 them all done in a day. But as defendants revise,
13 it probably means that that's going to be
14 sacrificed, which is fine. I mean, that's not -- I
15 don't want to make you -- I want to give you time.
16 But just be mindful that when everybody comes in and
17 says, "Oh, let's start at 8:30, and get them all
18 done in a day," it probably can't happen now.

19 MR. VILLA: And Your Honor, I was just
20 thinking an hour, maybe an hour and 15 minutes. But
21 I just didn't want the Court, if it was 45 minutes
22 and I need 15 more, to be surprised or --

23 THE COURT: I understand. I was bracing
24 myself for that. I thought that given the estimates
25 people gave, we might be able to maybe have closings

1 or have instructions on one day, get me out of the
2 way, and then y'all just have a whole day. But I
3 think, given that people are expanding, it's
4 probably going to be too tight. So we won't worry
5 about it.

6 All right. All rise.

7 (The jury entered the courtroom.)

8 THE COURT: All right. Everyone be
9 seated. Well, good morning, ladies and gentlemen.
10 Again, I just can't compliment you enough. I spend
11 a lot of time sitting here and talking to juries.
12 And some juries, they kind of wander in and we have
13 to round them up and things. Y'all have just been a
14 wonderful bunch to work with. And I certainly speak
15 on behalf of the Court. But I think the parties and
16 the counsel appreciate your efforts. You've just
17 been a great bunch to work with, and we appreciate
18 it very much. So good morning. I appreciate it.

19 All right. We have Mr. Duran coming back.
20 Let's see if we can get him on the stand. I brought
21 y'all in before I brought in Mr. Duran, so I'll
22 pause for just a second.

23 Ms. Duncan, they are the new ones?

24 MS. DUNCAN: Yes, Your Honor.

25 THE COURT: They don't duplicate what was

1 on the yellow sheet yesterday?

2 MS. DUNCAN: They do not.

3 THE COURT: All right. Mr. Duran, if

4 you'll come up and sit in the witness box.

5 Mr. Duran, I'll remind you you're still under oath.

6 All right. Ms. Armijo, if you wish to
7 continue your direct examination of Mr. Duran, you
8 may do so at this time.

9 MS. ARMIJO: Thank you, Your Honor.

10 ERIC PRESTON DURAN,
11 after having been previously duly sworn under
12 oath, was questioned, and continued testified as
13 follows:

14 CONTINUED DIRECT EXAMINATION

15 BY MS. ARMIJO:

16 Q. I believe we were on Exhibit 368 on clip
17 2. We can proceed with the end of that.

18 (Tape played.)

19 Q. All right. Mr. Duran, you were talking --
20 I think when we left off yesterday, you were having
21 a conversation with Anthony Baca about the feria,
22 and giving money, the \$50 a month; is that correct?

23 A. Yes.

24 Q. Is this a continuation of that?

25 A. Yes, ma'am.

1 Q. Now, he's talking about something getting
2 bigger and bigger. What is he referring to as far
3 as what you understood?

4 A. He's talking about the tributes getting
5 bigger and bigger, as far as putting it in the bank
6 account and letting it grow.

7 Q. And what was one of the things that he had
8 an idea to use the money for?

9 A. He actually had a few things. He wanted
10 to buy drugs and weapons.

11 (Tape played.)

12 Q. Before we get down too far, there was a
13 line up there that talked about, "and he needs some
14 fucking jefe taken care of." What is "jefe"?

15 A. Shot-caller.

16 Q. And then he goes on talking about "that
17 fucking 10 grand, or he's going to pay so much in
18 drogas." What was that in reference to?

19 A. A hit; could be a hit.

20 (Tape played.)

21 Q. Now, it seems there is mention of a
22 recruiting process. What was your understanding of
23 a recruiting process? What was that in reference
24 to, I should say?

25 A. Just recruiting soldiers for jobs.

1 (Tape played.)

2 Q. There was mention there of a term, "Zia
3 mano." Do you know what that discussion is about?

4 A. Just the brother -- it's self-explanatory,
5 what he explained, it's the handle of the SNM.

6 Q. And is that a term that has been used
7 before, or is this a new term?

8 A. It was a created term by him, Anthony
9 Baca.

10 (Tape played.)

11 Q. There is also a term Zia "Keeskee"?

12 A. Yes.

13 Q. What is that?

14 A. It's a prospect; someone that has to earn
15 the initiatives to get into the gang.

16 Q. Is that a term that had previously been
17 used, from what you were familiar with, or is that a
18 new term?

19 A. That's a created term by Mr. Baca.

20 MS. ARMIJO: I'm going to go now to
21 Exhibit 322 and move for the admission of 322.

22 THE COURT: Any other discussion on that?

23 MS. DUNCAN: Yes, Your Honor, may we
24 approach?

25 THE COURT: You may.

1 (The following proceedings were held at
2 the bench.)

3 MS. DUNCAN: Your Honor, on this call,
4 this is a call about why -- my understanding is, why
5 they don't send someone, a mole, into the RFPP
6 program or the dropout program; a later generation
7 wouldn't know that he was a mole, he was actually a
8 dropout, and put him in danger. We object to this.
9 It's a hypothetical conversation and speculation,
10 and has no relevance to the charges in this case.
11 And it's highly prejudicial to Mr. Baca. So for
12 that reason we'd ask the Court exclude it.

13 THE COURT: Ms. Armijo?

14 MS. ARMIJO: Your Honor, it specifically
15 has information about green lighting people, terms
16 that the jury is familiar with. Again, we're trying
17 to show that Mr. Baca is the leader; that he is
18 aware of people. He talks about a specific purpose,
19 specifically with Cyclone and Psycho. So we'd like
20 to play the whole call. It's not that long. But it
21 is relevant, specifically that portion of it.

22 THE COURT: Well, I think these are
23 showing plan and design, so I think it's appropriate
24 for these to come in. I don't think there is much
25 of a 403 problem. I do think there is some

1 relevance to it, so I'll overrule the objection.

2 MS. BHALLA: Your Honor, can we, just
3 since we're starting the testimony, again today get
4 a limiting instruction?

5 THE COURT: Okay.

6 (The following proceedings were held in
7 open court.)

8 THE COURT: All right. We're going to be
9 playing tapes this morning. These are conversations
10 with Mr. Baca. And so again, these can only be used
11 in your discussions of the charges against Mr. Baca
12 and not the other three gentlemen.

13 All right, Ms. Armijo.

14 BY MS. ARMIJO:

15 Q. All right. I believe we are on 322.

16 THE COURT: And 322 is admitted into
17 evidence.

18 (Government Exhibit 322 admitted.)

19 (Tape played.)

20 Q. All right. That's a portion of Exhibit
21 322. Are you familiar with what that conversation
22 was in reference to?

23 A. Yes, ma'am.

24 Q. Can you explain that to the jury?

25 A. As far as denouncing, there is a member

1 that's mentioned in this clip. His name is Psycho,
2 which is a member that Anthony Ray Baca put a hit
3 out on in 2013 and got him assaulted for stealing
4 drugs. And part of that action, he was sent to an
5 area where people that don't want to be a part of
6 SNM no more go; it's considered PC, protective
7 custody. Since he actually wasn't in there because
8 he wanted to be in protective custody, Anthony Baca
9 wanted to utilize him to hit people that were in
10 there for protective custody.

11 Q. All right. So it was a plan about putting
12 somebody in with the people that are in protective
13 custody?

14 A. Someone that's already in there, yes.

15 Q. Yes. To use that person?

16 A. Right.

17 Q. All right. And next we're going to go to
18 Exhibit 294. I move for the admission of 294?

19 THE COURT: Anything else to be said on
20 294?

21 MS. DUNCAN: Yes, this is the one we were
22 objecting to the Court yesterday.

23 THE COURT: All right. Let's take a
24 break. I'm going to have to work on these
25 transcripts a little bit. So let's be in recess for

1 a few minutes. All rise.

2 (The jury left the courtroom.)

3 THE COURT: All right. Why don't you give
4 me the order of the transcripts that you're going to
5 be using so I can try to stay ahead of you guys?
6 Can you give me the order?

7 MS. ARMIJO: In the order the defense is
8 objecting to them?

9 THE COURT: No, the order you're going to
10 play them, so I can stay ahead of you by giving you
11 rulings, so I don't slow the jury down.

12 294 is next. What's next?

13 MS. ARMIJO: 292, 376 -- I guess it's 362,
14 304, 388, 310, 318, 320, 390, 296, 308, 384, 422,
15 420, 416, 328, 330, 344, 418, and 348.

16 THE COURT: Okay. Let me see if I can get
17 some estimates on time. On 294, about how long of a
18 tape is it?

19 MS. ARMIJO: Well, it's a long tape, but I
20 don't believe that the clip that we're going to play
21 is very long. I don't have the clips broken down by
22 time period, Your Honor.

23 THE COURT: Okay. All right. Give me a
24 few minutes, and let me see if I can get these lined
25 up and in order.

1 MS. DUNCAN: I think there's a couple that
2 I don't think were on the list that Ms. Armijo gave
3 me yesterday, so we haven't submitted objections on
4 that. I haven't gone through the list. And this
5 would be 304.

6 MS. ARMIJO: Your Honor, I believe 304 is
7 the one that you indicated this morning that you
8 were allowing in.

9 MS. DUNCAN: You're right. The other one
10 is 318.

11 MS. ARMIJO: We're not playing 318.

12 MS. DUNCAN: Then I think we're on the
13 same page, Your Honor.

14 THE COURT: Okay. Give me a few seconds
15 to look at these things.

16 (The Court stood in recess.)

17 THE COURT: The ones I don't have a
18 transcript from, 362.

19 MS. DUNCAN: I do object to that one.

20 THE COURT: 388?

21 MS. DUNCAN: I don't object to that one.

22 MS. ARMIJO: A lot of these were not
23 redacted, so they are in your notebooks under the
24 exhibit numbers. So we provided the Court with
25 exhibit numbers, so 388 would be under 388.

1 THE COURT: How about 310?

2 MS. DUNCAN: I don't have an objection.

3 THE COURT: All right. 320?

4 MS. DUNCAN: No objection.

5 THE COURT: And you're not going to be
6 playing 318; right?

7 MS. ARMIJO: No, I'm not.

8 THE COURT: 296?

9 MS. DUNCAN: I object to that one.

10 THE COURT: 308.

11 MS. DUNCAN: I object to that one.

12 THE COURT: 422?

13 MS. DUNCAN: Objection.

14 THE COURT: 420?

15 MS. DUNCAN: Objection.

16 THE COURT: 416?

17 MS. DUNCAN: Objection.

18 THE COURT: 428?

19 MS. DUNCAN: No objection.

20 THE COURT: 330?

21 MS. DUNCAN: No objection.

22 THE COURT: What was the situation on 331?

23 Did y'all decide not to play it?

24 MS. ARMIJO: So the even numbers are the
25 recordings, and then the odd number next to it is

1 going to be the transcript. So I shouldn't have
2 said any odd numbers.

3 THE COURT: I had neither 330 or 331. So
4 it doesn't look like I have either one of those.
5 And on 330 and 331, you have objections?

6 MS. DUNCAN: I do not, Your Honor.

7 THE COURT: Your last one that you have an
8 objection to is 328?

9 MS. DUNCAN: I do not have an objection on
10 328 either.

11 THE COURT: All right. How about 416?
12 Did you have an objection?

13 MS. DUNCAN: Yes.

14 THE COURT: And 330, no objection?

15 MS. DUNCAN: No objection.

16 THE COURT: 331, no objection?

17 MS. DUNCAN: Yes.

18 THE COURT: 344, no objection?

19 MS. DUNCAN: Correct. Then I think we had
20 an objection to 348.

21 THE COURT: You did have an objection on
22 348?

23 MS. DUNCAN: Yes, Your Honor.

24 MS. ARMIJO: And Your Honor, if you want
25 us to go ahead and reprint them for you, we can.

1 THE COURT: Let me just take these back to
2 the vestibule and get these done. So are you about
3 to play 294? Is that what's next?

4 MR. BECK: Yes, Your Honor, 294 is next.

5 THE COURT: All right. Let's jump to 292,
6 293. Then I'll go back and review 294. I'm looking
7 at pages 6009 to 6011. 292, 293 is the transcript
8 and the tape. As I think I indicated on these
9 yesterday, while 801(d)(2)(A) applies to Mr. Baca's
10 statements, the Mario Rodriguez statements I think
11 are inadmissible hearsay. I'm not seeing any way to
12 get those in. Rule 801(d)(2)(A) is not going to
13 apply to those statements because Mr. Baca didn't
14 make them. There are some instances where Mr. Baca
15 is making affirmative comments like, "Yeah," and I'm
16 looking specifically at DeLeon number 6011. Those
17 statements do not permit the Court to conclude that
18 Mr. Baca is adopting Mr. Rodriguez' statements or
19 manifesting a belief that those statements were true
20 under Rule 801(d)(2)(B). Mr. Baca's affirmative
21 comments, the ones he's actually making, appear, I
22 think, to undercut any 801(d)(2)(B) argument. His
23 statements appear to be contrary and express only
24 that he has heard and sort of understood what Mr.
25 Rodriguez' comments are.

1 So let's take out Mr. Rodriguez'
2 statements there on those two pages.

3 MS. ARMIJO: Your Honor, can we have the
4 pages again?

5 THE COURT: Those are 6009 to 6011. So it
6 would be three pages, and let's just take Mr.
7 Rodriguez' statements out.

8 All right. Let me go look. Let's get the
9 292, 293. Let me look at 294 and see if I can give
10 you a ruling on that and get started and keep it
11 rolling.

12 MS. ARMIJO: And Your Honor, just to be
13 clear on 6009, I believe the defense was objecting
14 to the part where Blue says "There is white boy."
15 But before that, on 6009, we were going to go into
16 that. So I believe what was objected to was where
17 it starts with Blue saying, "Hey, there was a white
18 boy." And I'm assuming that's the part that the
19 Court was referring to?

20 THE COURT: Rodriguez' statements?

21 MS. ARMIJO: Yes.

22 THE COURT: Yeah.

23 (A discussion was held off the record.)

24 THE COURT: Let's go back on the record.
25 I appreciate your patience. I'm looking at 294,

1 which is the next one up. I've given you the
2 rulings on 292, 293. Then I'll try to stay ahead of
3 you.

4 On 294, 6016, take out -- here is my
5 rulings. I'm looking for statements that are made
6 by Mr. Baca, not by Mr. Duran. And so take out most
7 of this page. In fact, the entire page down to
8 where it says "Pup" at the very bottom, "They know,
9 they know." You can leave that in.

10 And I think you can leave, on the next
11 page, 6017, you can leave "the stuff" -- the first
12 half of the page, "The stuff is okay." It's against
13 Mr. Baca.

14 About the middle of the page where it says
15 "CHS: Yeah, that's why I'm saying, that's what he
16 did, he did, he tried to stop it." That's the CHS.
17 So that's not okay. So take out the rest of that
18 page.

19 Continue to redact down to the middle of
20 the page where it says "Pup," and then it says,
21 "Baby Rob has always been -- he is my second in
22 command." You can leave that.

23 Take out what the CHS says in the next
24 paragraph.

25 And then you can pick back up with the

1 recording where it says "Pup: That's because Baby
2 Rob -- Baby Rob seen how I do it now." So you can
3 leave the rest of the page, what CHS says, what Pup
4 says.

5 The next page is okay, 619. 620 is okay.
6 621, about the first half of the page, is
7 okay, down to where it says, "Pup: Yeah." And then
8 from there you can leave "Pup: Yeah." But the CHS
9 on 621, "CHS" where it says, "Hey and the thing is
10 washa these vatos Cyclone and Rabbit," from there on
11 redact the rest of the page. Redact all of page
12 622. Redact all of page 623 and all of page 624.

13 And I've given you 692, 693 (sic). I'll
14 try to look at 376 while y'all are playing those.

15 Are you ready to go?

16 MS. ARMIJO: Not quite. I think the next
17 clip I was going to play you just redacted part of
18 it so I'll just need a minute to get that taken out.

19 THE COURT: We'll go ahead and have Ms.
20 Standridge line up the jury. Ms. Duncan, do you
21 have something?

22 MS. DUNCAN: Your Honor, the only thing I
23 would ask is for pages 6013, 6014, and 6015, I
24 understand that the Court is leaving all that in.

25 THE COURT: Yes.

1 MS. DUNCAN: So most of this is Mr. Duran
2 speaking, and then with Mr. Baca responding. We
3 would ask for a limiting instruction as to
4 Mr. Duran, that what he's saying -- it is hearsay,
5 and it shouldn't be considered for the truth, but
6 rather to put into context what Mr. Baca is
7 responding to.

8 THE COURT: All right.

9 MS. DUNCAN: Thank you.

10 THE COURT: Why don't we do this? While
11 it's being made, let's wait for the break and then
12 I'll give it at the appropriate time. I think if I
13 just try to give it now, it's not going to make any
14 sense. So why don't you tell me when we're at the
15 place you want, and I'll give it as to those. The
16 page numbers will be up there.

17 MS. DUNCAN: I don't think so, Your Honor.
18 But I can follow the transcript, and I'll just pop
19 up, how we've been doing it with the James.

20 THE COURT: All right. Tell me when you
21 want it, then.

22 All rise.

23 (The jury entered the courtroom.)

24 THE COURT: All right. We're going to see
25 if we can give this a try and I'm going to see if I

1 can stay ahead of the lawyers and the parties. And
2 we may have to take some breaks here for me to stay
3 up with them, but we'll see if we can go with this.

4 All right. Ms. Armijo.

5 MS. ARMIJO: All right. I believe we were
6 on --

7 THE COURT: Mr. Duran, I'll remind you
8 you're still under oath.

9 THE WITNESS: Yes, Your Honor.

10 BY MS. ARMIJO:

11 Q. I believe we were on 294. If we could
12 play the first clip.

13 (Tape played.)

14 Q. All right. Mr. Duran, Baby Rob is who?

15 A. Robert Martinez.

16 Q. And is that what this -- the beginning of
17 this conversation is about?

18 A. Anthony Ray Baca is expressing who his
19 second in command is, which is his underboss.

20 Q. All right. Play the next clip.

21 (Tape played.)

22 MS. ARMIJO: May I have a moment?

23 (Tape played.)

24 Q. All right. Mr. Duran, a couple of things.
25 What is brujas?

1 A. Problems.

2 Q. And then when we're talking about "down
3 there at the main," what is that in reference to?

4 A. The Main is a facility that's in Santa Fe,
5 New Mexico, one of the first prisons in New Mexico.

6 Q. All right. And is that the one where the
7 riots happened that closed around 1997, '98?

8 A. That's where the SNM organization was
9 founded, yes, ma'am.

10 MS. ARMIJO: At this time we move for the
11 admission of 292.

12 THE COURT: All right. Did you need
13 anything on that, Ms. Duncan?

14 MS. DUNCAN: Nothing additional, Your
15 Honor.

16 THE COURT: All right. Okay. No
17 instruction on those pages you had talked about?

18 MS. DUNCAN: No, Your Honor.

19 THE COURT: All right. So Government's
20 Exhibit 292 will be admitted into evidence.

21 (Government Exhibit 292 admitted.)

22 MS. JACKS: And again, Your Honor, we
23 would request limiting instructions.

24 THE COURT: These are all statements by
25 Mr. Baca. So again, these can only be considered in

1 your deliberation of charges against Mr. Baca and
2 not the other three gentlemen.

3 All right, Ms. Armijo.

4 BY MS. ARMIJO:

5 Q. All right. We're on 292, clip one.

6 (Tape played.)

7 Q. Now, we just heard a portion of a
8 conversation. And is that with -- tell us how many
9 people are talking in this conversation.

10 A. There's three people talking in this
11 conversation: Myself, Mario Rodriguez, and Anthony
12 Ray Baca.

13 Q. And where are you at?

14 A. In the discussion or --

15 Q. No, meaning where is -- are you all three
16 out together, or is this a situation where you're in
17 your cell and they're on each side of you?

18 A. Yeah, we're all confined in our cells and
19 we're talking through our vent.

20 Q. Okay. And so what is this in reference
21 to?

22 A. This is in reference to an inmate that was
23 an SNM member that Anthony Ray Baca wanted hit,
24 wanted assaulted or killed.

25 Q. Okay. And do you know -- it says, "That

1 one that fucking Jake was protecting." Do you know
2 who Jake is?

3 A. Jake is an SNM member.

4 Q. What is his full name?

5 A. Jake Armijo.

6 Q. If we could go to clip 2.

7 (Tape played.)

8 Q. All right. Now, there's a couple of
9 different people mentioned here. Do you know who a
10 Scooby is?

11 A. I know a little bit about Scooby, yes,
12 ma'am.

13 Q. And what is this conversation in reference
14 to?

15 A. This conversation is in reference to what
16 I explained earlier as far as the inmate that was in
17 the PC, and Anthony Ray Baca wanted to utilize him
18 to hit dropouts. So this is actually what he's
19 explaining in this conversation is why that
20 individual got hit and for the reasons, which was
21 stealing Suboxone, drugs.

22 Q. And who was the individual that was to get
23 hit?

24 A. Psycho.

25 Q. And is this an explanation of that?

1 A. Yes, ma'am.

2 Q. All right. And then we're going to go to
3 clip 3.

4 (Tape played.)

5 Q. Now, there it appears that Anthony Baca
6 was talking about an individual where he's
7 complaining about the individual being there when
8 he's been gone out of state. Do you know what
9 individual he's referring to?

10 A. I believe he's referring to BB, which is
11 Javier Rubio.

12 Q. Okay.

13 (Tape played.)

14 Q. Do you know what "si me tiende" means?

15 A. "You know what I mean."

16 Q. And the plan that he's talking to you and
17 Mario Rodriguez about -- is that the same plan that
18 he's been referring to earlier?

19 A. The plan we came into the courtroom with,
20 talking about?

21 Q. Yes.

22 A. Yes, ma'am.

23 Q. All right.

24 (Tape played.)

25 Q. Now, it appears that Mr. Anthony Baca is

1 saying that "They're the ones to blame; they want to
2 turn around and blame it all on us and tell the news
3 media that we're the devil's children, carnal." Who
4 is he referring to there?

5 A. He's referring to administration.

6 Q. All right.

7 (Tape played.)

8 Q. What is jura?

9 A. Correctional officers.

10 Q. So is that what's referred to when "juras
11 were already paranoid"? Is that correctional
12 officers?

13 A. Yes, ma'am.

14 Q. Okay. And then it says, "The whole, I was
15 sending word to the Burquenos." Who's the
16 Burquenos?

17 A. The Burquenos is a gang from Albuquerque,
18 New Mexico.

19 Q. And are they considered rivals of the SNM?

20 A. Yes, ma'am.

21 Q. All right. And so during this
22 conversation, it appeared that through all these
23 clips it was a conversation including Mario
24 Rodriguez; is that correct?

25 A. Yes, ma'am.

1 Q. And who was the conversation between? I
2 mean, who was Anthony Baca talking to? Was he
3 talking to the two of you, or was he talking more to
4 one of the two of you?

5 A. He's talking to both of us.

6 Q. All right.

7 MS. ARMIJO: The United States at this
8 time would move for the admission of 376.

9 THE COURT: 376?

10 MS. ARMIJO: Yes.

11 THE COURT: Why don't y'all approach?

12 (The following proceedings were held at
13 the bench.)

14 THE COURT: I'm going to rule that this
15 all comes in. There are some Claudette, Yvonne, Mr.
16 Baca's wife, girlfriend's statements, that I don't
17 think Mr. Baca adopts, but they put the relevance,
18 exchange about drugs, and I'm looking specifically
19 at pages 6275 and 6276 into context, which is for a
20 nonhearsay purpose.

21 So if you want anything on that, I'd be
22 glad to give an instruction on that. But as far as
23 the jury hearing it, I'm going to go ahead and allow
24 the entire tape to be played.

25 MS. DUNCAN: Okay.

1 THE COURT: So if you get to 6275, 6276,
2 I'm not saying he adopted those statements; and
3 those are coming in for a nonhearsay purpose of
4 putting in context the discussion about the drugs.
5 So if you need something on it, let me know. All
6 right?

7 MS. DUNCAN: And Your Honor, is it
8 possible to read the Bates numbers when you're
9 playing clips? I've got the full transcript. I'm
10 trying to catch up with you and it's hard. Is that
11 okay?

12 MS. ARMIJO: Oh, okay.

13 MS. DUNCAN: Thank you.

14 (The following proceedings were held in
15 open court.)

16 THE COURT: All right. So Government's
17 Exhibit 376 will be admitted into evidence.

18 (Government Exhibit 376 admitted.)

19 MR. JACKS: And again, Your Honor, we'd
20 request a limiting instruction.

21 THE COURT: And again, these are tapes of
22 conversations of Mr. Baca's. So you can only
23 consider these conversations and tapes of Mr. Baca's
24 statements in your deliberation of the charges
25 against Mr. Baca and not against the other three

1 gentlemen.

2 Ms. Armijo.

3 BY MS. ARMIJO:

4 Q. All right. In reference to Exhibit 376,
5 Mr. Duran, did you have an opportunity to -- in
6 addition to talking to Anthony Baca, did you have an
7 opportunity to talk to -- much like Chris Garcia,
8 did you talk to any of his family members?

9 A. Whose family members?

10 Q. Anthony Baca's. Sorry.

11 A. Yes, ma'am.

12 Q. And which family members did you talk to?

13 A. Claudette and his mother.

14 Q. Is it Yvette or Yvonne?

15 A. Yvonne. Claudette, Yvonne and his mother.

16 Q. And who is Yvonne Griego?

17 A. His girlfriend or wife. I'm not sure.

18 Q. And did you have an opportunity to have a
19 conversation with them?

20 A. While he was on the phone?

21 Q. Yes.

22 A. Yes, ma'am.

23 Q. Okay. And at whose request was that?

24 A. At his request.

25 Q. And do you know how many times you spoke

1 to Yvonne with Anthony Baca as well? Was it more
2 than once?

3 A. It was more than once.

4 MS. ARMIJO: All right. And I'm referring
5 to Exhibit Number 376. If we could play the first
6 clip, which I believe is on Bates 6271.

7 (Tape played.)

8 Q. All right. Is the female that we hear in
9 there -- is that Yvonne?

10 A. Yes, ma'am.

11 Q. And it sounds like Anthony Baca is saying
12 something, and are you repeating it to her?

13 A. Yes, ma'am.

14 Q. And who is Baby G?

15 A. Baby G is one of Anthony Ray Baca's
16 right-hand man.

17 Q. Is his name Jonathan Gomez?

18 A. Yes, ma'am.

19 Q. Okay. And is this a message that he was
20 trying to get to Baby G?

21 A. This is an order that he's passing to Baby
22 G to kill BB, who is Javier Rubio.

23 Q. Okay. And so he's trying to get the
24 message to Baby G about BB?

25 A. Yes, ma'am.

1 Q. Okay. And what is -- it says, "Somebody
2 that's trustworthy, that's not going to go around
3 talking about it."

4 Do you know what that was in reference to?

5 A. He wanted someone to conduct the hit that
6 wasn't going to go and tell everybody, so it would
7 remain a secret.

8 Q. Tell anyone about the hit?

9 A. Right.

10 Q. Okay. And did you also have -- in this
11 conversation was there reference to drug activity?

12 A. In this conversation?

13 Q. Not this one that we're looking at, but
14 did you have conversations with Yvonne and Pup about
15 drug activity?

16 A. Yes. Not in this conversation.

17 Q. All right. Now, if we could go now to --
18 we'll come back to that one.

19 MS. ARMIJO: At this time, move for the
20 admission of 262 (sic).

21 THE COURT: You had told me the next one
22 was going to be 362, so --

23 MS. ARMIJO: I'm sorry, 362.

24 THE COURT: All right. Let me see counsel
25 then up front here.

1 (The following proceedings were held at
2 the bench.)

3 THE COURT: I think this one is okay.
4 There are some Duran statements that aren't adopted
5 by Mr. Baca, but they're irrelevant; it's not being
6 offered for the truth of the matter. If you want me
7 to say something like that, give some limiting
8 instruction; but I just don't see them being
9 prejudicial to you. They are irrelevant to what
10 Duran is saying. If you want me to say something
11 like that, that they're not being offered for the
12 truth, I can do that.

13 MS. DUNCAN: I'm less concerned about what
14 Mr. Duran says as I am about the lack of relevance
15 to this. There is no document that they're going to
16 show that has the code. This is just sort of a
17 gossipy kind of conversation, but suggestions to the
18 jury that are inappropriate, and I'd ask the Court
19 exclude it on that ground.

20 THE COURT: I think I know what you're
21 going to say, but you want to tell me why it's
22 relevant?

23 MS. ARMIJO: It is relevant. He's setting
24 out things that he wants to have happen. This one
25 in particular, he's talking about the four-figure

1 leg lock, and he is going into more activity that he
2 has planned. And he specifically talks about --
3 Santistevan's name is specifically brought up during
4 this conversation.

5 THE COURT: I think there is enough
6 smattering of relevance in it that it survives any
7 403 challenge, so I'll allow it. If you want
8 anything about Duran's statements, I don't think
9 this is terribly prejudicial or prejudicial at all;
10 they're irrelevant. If you want an instruction, I
11 can give it.

12 MS. DUNCAN: All right. I'll see how it
13 comes out.

14 THE COURT: See what you want.

15 (The following proceedings were held in
16 open court.)

17 THE COURT: All right. Government's
18 Exhibit 362 will be admitted into evidence.

19 (Government Exhibit 362 admitted.)

20 MR. JACKS: And Your Honor, again, we'd
21 ask for the limiting instruction.

22 THE COURT: Again, these are statements by
23 Mr. Baca, so you can only consider them in your
24 deliberations as to the charges against Mr. Baca and
25 not the charges against the other three gentlemen.

1 MS. ARMIJO: If we can go ahead and play
2 the clip from 362.

3 (Tape played.)

4 BY MS. ARMIJO:

5 Q. All right. And we started a portion of
6 this transcript, and there is mentioning of some
7 quotes. What are you talking about here?

8 A. Anthony Ray Baca is discussing and
9 describing the way he speaks in code talk, and he
10 said "like the four-figure leg lock." That means
11 kill.

12 Q. Okay. And what was the purpose of the
13 code talk?

14 A. The code talk is so correctional officers
15 couldn't understand or comprehend what we were
16 discussing in our communications.

17 Q. All right.

18 (Tape played.)

19 Q. Okay. Now, here you mentioned that -- you
20 say to him, "When you wrote that fucker and told
21 him -- and told him to fucking hit Santistevan," and
22 you're asking about somebody writing you back. What
23 are you referring to?

24 A. I'm referring to a coded letter that he
25 sent to Baby G, which is his right-hand man, to

1 Southern New Mexico Correctional Facility, which is
2 here in Las Cruces, and he ordered Baby G to hit
3 Santistevan in the pod as soon as he could. This is
4 when he was shipped out of state after the Javier
5 Molina murder.

6 Q. So does this refer back to the
7 conversation that you testified about yesterday,
8 back in 2013? How is it that you knew that he wrote
9 to Baby G about that?

10 A. Because he's expressing it in this
11 conversation.

12 Q. All right. Okay. We can go on.

13 (Tape played.)

14 MS. DUNCAN: Your Honor, we'd ask for a
15 limiting instruction on that last statement by Eric
16 Duran.

17 THE COURT: All right. Mr. Duran is
18 making certain statements on here. What Mr. Duran
19 is saying is irrelevant. It's not being offered for
20 the truth. So you're not to consider what he's
21 saying for the truth. You're to consider what Mr.
22 Baca is saying.

23 So I give you what Mr. Duran is saying
24 just so that you understand the context. But you
25 can't consider what Mr. Duran is saying for the

1 truth of the matter. It's not relevant to your
2 conversations.

3 All right. Ms. Armijo.

4 BY MS. ARMIJO:

5 Q. Mr. Duran, there is a mention there of
6 J-Little, JR2. Who is that?

7 A. JR, Jerry Montoya.

8 Q. All right.

9 MS. ARMIJO: I'm going to move for the
10 admission of Exhibit Number 304.

11 THE COURT: All right. The lawyers and
12 the parties are staying ahead of me. So let's take
13 a break and let me review 304.

14 MS. ARMIJO: And Your Honor, I believe
15 that was the one that was mentioned first thing this
16 morning.

17 THE COURT: That's right. I've already
18 ruled on 304. So Government's Exhibit 304 will be
19 admitted into evidence.

20 (Government Exhibit 304 admitted.)

21 MS. ARMIJO: All right. Go ahead and
22 start that one.

23 (Tape played.)

24 BY MS. ARMIJO:

25 Q. And who is Juan Baca?

1 A. Juan Baca?

2 Q. Yes.

3 A. The founder.

4 Q. And is that who he was referring to in the
5 beginning there?

6 A. Yes, ma'am.

7 Q. Keep going.

8 (Tape played.)

9 Q. Okay. Now, it appears that Anthony Baca
10 is talking about an incident, so I want to get some
11 names out here. Who is Bear?

12 A. Oso. He's an SNM member.

13 Q. And are you familiar with Oso?

14 A. Yeah, a little bit.

15 Q. Okay. And what about "pistolas"? What
16 does that mean?

17 A. Pistols.

18 Q. And can you tell what the beginning of
19 this conversation -- what it is that he's starting
20 to explain to you?

21 A. What he is?

22 Q. Yes.

23 A. He's a survival gang member.

24 Q. Okay. And what is this incident in
25 reference -- he's talking about Bear, these --

1 they're rattling the bars, and "Bear already said he
2 was going to send you guys an issue." What is that
3 in reference to?

4 A. An issue is a drug issue.

5 Q. Okay. Does it appear that there are some
6 gang members that are upset and he's trying to calm
7 them down?

8 A. Yes, ma'am.

9 Q. Okay. Keep going.

10 (Tape played.)

11 Q. Okay. Now, it appears that Anthony Baca
12 indicates to Bear something. What is he telling
13 Bear to not do?

14 A. To disregard giving the individuals any
15 kind of drugs.

16 Q. And he says something about respect?

17 A. Disrespect, not respect.

18 Q. Well, I guess my point is: Was it your
19 sense that Mr. Baca was disrespected by these
20 people?

21 A. Yeah, they were disrespecting by trying to
22 rush these individuals into giving them drugs.

23 Q. All right. And so what is Anthony Baca
24 telling you that he ordered Bear to do or not do?

25 A. To not give them nothing.

1 Q. All right.

2 (Tape played.)

3 Q. Okay. Now, is this a continuation of the
4 same story?

5 A. Yes, ma'am.

6 Q. Okay. And can you tell what's going on,
7 what he's explaining to you?

8 A. He's having altercations with these
9 individuals that he refused to give drugs to.

10 Q. Okay. So I guess tensions are starting to
11 run high here?

12 A. Yes, ma'am.

13 Q. Okay.

14 (Tape played.)

15 Q. Okay. Now, it appears that there was
16 somebody taken to the hospital. What is that in
17 reference to?

18 A. To an individual getting stabbed.

19 Q. Who was stabbed?

20 A. Rival gang members.

21 Q. Okay. So the rival gang member stabbed
22 somebody?

23 A. Correct.

24 Q. And was the person that was stabbed -- who
25 was he, in relationship to SNM?

1 A. He was an SNM Gang member.

2 MS. DUNCAN: Your Honor, I'm going to
3 object on foundation for this witness.

4 THE COURT: Well, lay some foundation if
5 you want to elicit this.

6 BY MS. ARMIJO:

7 Q. Who was it that was stabbed?

8 A. Jesse.

9 THE COURT: I think that's where you need
10 foundation.

11 MS. ARMIJO: I'm sorry?

12 THE COURT: Does he even know and how does
13 he know?

14 BY MS. ARMIJO:

15 Q. Do you know who was stabbed?

16 THE COURT: Well --

17 Q. I'll go back one step further. Was
18 somebody stabbed?

19 A. Somebody was stabbed.

20 THE COURT: I think we need to know how he
21 knows this information. He's giving us information.
22 I think we need know how he knows it.

23 A. I think it's self-explanatory within the
24 statement that he's making, that they use weapons,
25 fierros.

1 MS. DUNCAN: Your Honor. I object.

2 THE COURT: Sustained. I'm not getting
3 any help.

4 BY MS. ARMIJO:

5 Q. Did you -- in reference to this
6 conversation, were you aware of this incident
7 previous?

8 A. Yes, ma'am.

9 Q. You were?

10 A. Aware of it?

11 Q. Yes.

12 A. As far as what he's telling me.

13 Q. Okay. I know that we have a conversation
14 before you. Before this conversation that you had
15 with Anthony Baca, were you aware of this incident
16 that we're looking at and reading and listening to,
17 were you aware of that previous to Anthony Baca
18 telling you about in, it what we have before you?

19 A. This is the second or third time he's told
20 me the story.

21 Q. I guess that's my point. Had he
22 previously talked to you about this incident?

23 A. Yes, ma'am.

24 Q. When did he previously talk to you about
25 this incident?

1 A. 2013, 2012.

2 Q. Okay. And did he personally tell you
3 about this incident?

4 A. Yes, ma'am.

5 Q. In addition to personally being told about
6 this, is it something that you learned through --
7 and don't tell me what you learned -- but did you
8 know about this from other sources?

9 A. This is part of who he is. This is what
10 made him who he is.

11 MS. DUNCAN: Your Honor, I'm going to
12 object as nonresponsive.

13 THE COURT: Overruled.

14 BY MS. ARMIJO:

15 Q. All right. Was this, in your eyes -- I'm
16 just asking for your opinion -- was this incident
17 that we're listening to and going to hear about an
18 important incident in your eyes as far as Anthony
19 Baca's role in the SNM?

20 MS. DUNCAN: Your Honor, I'm objecting to
21 relevance. The witness' opinion of Anthony Baca is
22 not relevant.

23 THE COURT: Well, he's listening to these
24 conversations and talking to Mr. Baca, so I'll allow
25 the question. Overruled.

1 A. This is where he earned his recognition.
2 This is how people know Mr. Ray Baca.

3 BY MS. ARMIJO:

4 Q. Okay. And so I'm going to go back now.
5 Since you know about this incident and you indicated
6 it's, at least in your eyes, important to who he is
7 in the SNM, and he told you about it, are you aware
8 of who he is talking about here, when we're talking
9 about -- because there is more to come -- about who
10 was stabbed and whether or not that person that was
11 stabbed was an SNM Gang member?

12 A. Yes, ma'am.

13 MS. DUNCAN: I'm still going to object on
14 hearsay grounds, Your Honor.

15 THE COURT: Overruled.

16 BY MS. ARMIJO:

17 Q. And who was the person that was stabbed?
18 Was he an SNM Gang member?

19 A. Yes, ma'am.

20 Q. And what was the incident over?

21 MS. DUNCAN: Your Honor, can I have a
22 continuing objection?

23 THE COURT: I think you're going to have
24 to establish that he got this information from Mr.
25 Baca on every one of these statements.

1 MS. ARMIJO: Okay. I will.

2 BY MS. ARMIJO:

3 Q. Did you find out from Mr. Baca on previous
4 statements what this incident was about? And first,
5 we're just talking about an SNM Gang member being
6 stabbed.

7 A. Yes.

8 Q. Okay. And what was the stabbing over?

9 A. Altercation over drugs.

10 Q. Okay. And is it the same drugs that we
11 heard about previously where Mr. Baca had told Oso
12 not to provide drugs to rival gang members?

13 A. Aside from it being from drugs, it was
14 part of being disrespected.

15 Q. Okay. And what is the importance of being
16 disrespected in the SNM?

17 A. Being disrespected is what people couldn't
18 do.

19 Q. Okay. So I believe we last left off where
20 Anthony Baca is saying, "I hollered at Robert. I
21 told him" -- and who is Robert; do you know?

22 A. Robert Gallegos.

23 Q. And who is Robert Gallegos?

24 A. He's just an associate with the SNM.

25 Q. Okay. And it says there, "I'm going to go

1 out there and kill this fucker ese."

2 Based on your previous conversations with
3 Mr. Baca, are you aware of who -- this fucker ese he
4 would be referring to?

5 A. Later on in this story is the person that
6 he stabbed.

7 Q. Okay. And he's telling this to Robert,
8 the SNM associate at this point? Is that what he's
9 telling you?

10 A. Yes, ma'am.

11 Q. All right. Let's continue.

12 (Tape played.)

13 Q. Okay. Are you aware of where this
14 incident took place, based upon this call and your
15 previous conversations with Mr. Baca?

16 A. Yes, ma'am.

17 Q. Where did this incident take place?

18 A. This incident took place at the Main
19 facility in Santa Fe, New Mexico.

20 Q. And do you know -- and so the Main was
21 closed approximately in '97, '98; is that correct?

22 A. About the end of '97.

23 Q. Okay. So this incident occurred before it
24 closed?

25 A. Yes, ma'am.

1 Q. And the incident that he's referring to --
2 do you know whether or not that person lived?

3 A. Yes, ma'am. That person did not live.

4 Q. And now where we started this last
5 sequence, there is somebody asking Robert asking to
6 assist; is that correct? Do you recall that?

7 A. Yes, ma'am.

8 Q. And did Anthony Baca want Robert to assist
9 him?

10 A. He tried not to allow him to assist him,
11 but he ended up assisting anyway.

12 MS. ARMIJO: Next we are going to go to
13 Exhibit Number 388. Move for the admission of 388.

14 THE COURT: I had your next one down as
15 391. I have a 390 and 391. So I haven't reviewed
16 388. I didn't have that on the list. So if I'm
17 going to need to review 388, we're going to need to
18 take a break.

19 MS. DUNCAN: Your Honor, we don't have
20 further objection as to 388.

21 THE COURT: All right. Then Government's
22 Exhibit 388 will be admitted into evidence.

23 (Government Exhibit 388 admitted.)

24 MS. ARMIJO: And I believe the clip that
25 we're going to play starts on Bates 6333.

1 MS. JACKS: And can we request a limiting
2 instruction, please?

3 THE COURT: All right. These are all
4 conversations that Mr. Duran had with Mr. Baca. So
5 you can consider what Mr. Baca said in your
6 deliberations to him, and not as to the other three
7 defendants.

8 Ms. Armijo.

9 MS. ARMIJO: All right, go ahead and
10 start.

11 (Tape played.)

12 BY MS. ARMIJO:

13 Q. Okay. In this conversation, does it
14 appear to be between Anthony Baca and you?

15 A. And myself, yes, ma'am.

16 Q. And there is a mention of a Julian. It
17 says that Julian had to go. Who is Julian that
18 you're talking about in this conversation?

19 A. Julian Romero. He was a high-ranking SNM
20 member.

21 Q. Okay. And when he says that Julian had to
22 go, what is that in reference to?

23 A. It's a reference to -- he has to leave the
24 area where the SNM members are living.

25 Q. Okay.

1 (Tape played.)

2 Q. All right. Is this conversation in
3 reference to Julian Romero, Anthony Baca saying to
4 beat him up?

5 A. Yes. Yes, ma'am.

6 Q. All right. And there is reference to
7 Styx. Who is Styx?

8 A. Styx is Gerald Archuleta. He also is a
9 high-ranking SNM member within the organization.

10 Q. And did Gerald Archuleta and Julian
11 Romero -- if you are aware, were there issues
12 between the two of them?

13 A. There was issues between Gerald
14 Archuleta's wife and Julian Romero taking his wife
15 while he was in prison, which is a rule that is
16 forbidden within the organization.

17 Q. All right. And when he's referring to "He
18 done fucked up," who was Anthony Baca referring to?

19 A. Julian Romero.

20 MS. ARMIJO: At this time we move for the
21 admission of Exhibit Number 310.

22 MS. DUNCAN: Your Honor, this is another
23 one that we do not have additional objection to.

24 THE COURT: All right. That's what my
25 records indicate, as well. So Government's Exhibit

1 310 will be admitted into evidence.

2 (Government Exhibit 310 admitted.)

3 MS. ARMIJO: And we will start --

4 MR. JACKS: Again, we would request a
5 limiting instruction.

6 THE COURT: All right. We're continuing
7 to just play tapes of Mr. Baca. So it's the same
8 instruction. You can only consider it in relation
9 to Mr. Baca, not the other three defendants.

10 MS. ARMIJO: And we're going to start on
11 Bates 6055.

12 (Tape played.)

13 BY MS. ARMIJO:

14 Q. Do you know who Plaz is within the SNM?

15 A. Yes, ma'am. Plaz is Jerry Montoya. He's
16 one of the individuals that was involved in the
17 Javier Molina murder.

18 Q. And you're referring to Javier here.
19 Which Javier are you referring to?

20 A. It's Javier Molina, the one that got
21 murdered.

22 Q. All right.

23 (Tape played.)

24 Q. Who is Conejo?

25 A. Conejo was an SNM member.

1 Q. And the transcript says Conejo or Corejo?

2 A. It's Rabbit, Tommy Valdez.

3 Q. And when he says, "I'm going to push this
4 shit," what were you and Anthony Baca talking about?

5 A. He's indicating that he's going to enforce
6 the hit on Javier Molina.

7 MS. ARMIJO: Your Honor, at this time I
8 move for the admission of 320.

9 THE COURT: And this is another one you
10 didn't have a problem with, Ms. Duncan?

11 MS. DUNCAN: I have no further objections.

12 THE COURT: No further objections. All
13 right. So Government's Exhibit 320 will be admitted
14 into evidence.

15 (Government Exhibit 320 admitted.)

16 MS. JACKS: And again, the limiting
17 instruction, please.

18 THE COURT: All right. Again, these are
19 just tapes of conversations with Mr. Baca, so they
20 can only be used in your deliberation of the charges
21 against Mr. Baca and not the other three defendants.

22 MS. ARMIJO: All right. Go ahead.

23 (Tape played.)

24 BY MS. ARMIJO:

25 Q. What is Anthony Baca talking about in this

1 conversation?

2 A. Anthony Ray Baca is expressing to me his
3 initiation through violence to become an SNM Gang
4 member.

5 Q. Okay. Is that what he's referring to,
6 beating somebody up with a pipe?

7 A. Yes, ma'am.

8 Q. And there is a line, "Nobody -- nobody
9 could get in unless you put in jale, no?" What is
10 "jale"?

11 A. It means work. But work is kill, assault,
12 recognition.

13 Q. All right. And so is this in reference to
14 Anthony Baca's initiation into SNM as you understood
15 it?

16 A. Yes, ma'am.

17 MS. ARMIJO: Your Honor, at this time I
18 move for the admission of Exhibit 390.

19 THE COURT: All right. Why don't y'all
20 approach?

21 (The following proceedings were held at
22 the bench.)

23 THE COURT: I think this one is all good.
24 There's a couple of ways it comes in, even if it
25 comes because of Mr. Baca making the statement. I

1 think alternatively it's circumstantial evidence of
2 Mr. Baca's state of mind in giving orders. We
3 haven't been parsing these out. So if the other
4 defendants want limiting instructions, they can have
5 it.

6 As far as the middle of the page, it looks
7 to me like these are about the admissions of the
8 confidential informant. There are a couple of
9 pages, but I'm comfortable that these are all good.

10 MS. DUNCAN: We've made our arguments to
11 exclude these. I don't think I have anything else
12 to add.

13 THE COURT: Let me go ahead, while you're
14 up here, and give the one on 296 and 297. What I
15 understand Mr. Baca to be objecting to are the
16 statements on 627 and 628. But again, Baca made
17 those statements, and I think they are relevant
18 because they relate to Mr. Baca's plans to change
19 the SNM through fear and violence, which shows the
20 SNM structure, which is laying the groundwork here
21 why it's relevant, which goes to whether SNM is an
22 association-in-fact enterprise, and satisfies that.
23 And so it shows that the SNM was planning
24 racketeering activity, i.e., murders and threats.
25 So it's his statements that are coming in, and I

1 think they are relevant.

2 And then the next one is 308, 309. Again,
3 these are all Mr. Baca's statements. They're all
4 his complaints.

5 MS. DUNCAN: Your Honor, I only brought up
6 this one.

7 THE COURT: Okay. Do you want to look at
8 the --

9 MS. DUNCAN: Thank you, Your Honor. I'm
10 still talking about 309 and 308.

11 THE COURT: Again, these are all Mr.
12 Baca's statements. They're all about his complaints
13 about the SNM members, which I think those are
14 relevant to show that SNM has some structural
15 practices that goes to enterprise. So I think it's
16 relevant evidence. I'm going to allow -- let in
17 309.

18 So I guess these next three: 391, 207,
19 and 309. I don't see any redactions that are needed
20 on these next three.

21 MS. DUNCAN: We'll just incorporate all of
22 our earlier objections, Your Honor.

23 MR. JEWKES: While we're here, Your Honor,
24 we ask for a limiting instruction.

25 (The following proceedings were held in

1 open court.)

2 THE COURT: All right. Government's
3 Exhibit 390 will be admitted into evidence. Again,
4 this is a tape recording of conversations with Mr.
5 Baca, and you can only consider it in your
6 deliberations of the charges against Mr. Baca and
7 not for consideration of the charges against the
8 other three gentlemen.

9 (Government Exhibit 390 admitted.)

10 MS. ARMIJO: Okay. If we could play a
11 clip from 390.

12 (Tape played.)

13 BY MS. ARMIJO:

14 Q. Now, there is a mention of a Kreaper. Who
15 is Kreaper again?

16 A. Kreaper is Jerry Armenta. He is also an
17 individual that was involved in the Javier Molina
18 murder.

19 Q. Okay. And what is this conversation over?

20 A. This conversation is over his testimony
21 and him being a cooperative witness for the State at
22 this time. And Anthony Ray Baca wanted to send a
23 message to his mother to let him know, if he
24 testifies, somebody in his family would be hurt.

25 Q. Okay.

1 (Tape played.)

2 Q. All right. That last statement, "Kreaper
3 is fucking up. If you take the stand against this
4 pedo, against anybody, we're coming for your ass."

5 Who was that statement meant to go to?

6 A. That statement was meant to go to anybody
7 that was in Jerry Armenta's family. His mother
8 specifically.

9 Q. Was Anthony Baca trying to prevent Jerry
10 Armenta from testifying in the state case?

11 A. Yes, ma'am.

12 Q. And is this -- again, is this still -- all
13 these calls that we've been listening to this
14 morning, is this still in the time period from
15 mid-October or so, before December 3 of 2015?

16 A. Yes, ma'am.

17 MS. ARMIJO: All right. At this time I'd
18 like to admit Exhibit 296.

19 THE COURT: Government's Exhibit 296 will
20 be admitted in evidence.

21 (Government Exhibit 296 admitted.)

22 MS. JACKS: Again, we'd request a limiting
23 instruction.

24 THE COURT: Again, this will be a tape of
25 the conversation, and you'll see the transcript with

1 Mr. Baca. You can only use this evidence in your
2 deliberations against Mr. Baca, and not as to your
3 deliberation as to the charges against the other
4 three defendants.

5 BY MS. ARMIJO:

6 Q. Now, you indicated previously, when you
7 testified yesterday, that you had a conversation
8 with Anthony Baca in reference to wanting to have
9 individuals hit within NMCD's administration;
10 correct?

11 A. Yes, ma'am.

12 Q. And throughout the same time period, did
13 you have various conversations with him about that?

14 A. Yes, ma'am.

15 Q. Did the conversations include both you
16 having a one-on-one conversation with him, as well
17 as you calling individuals on his behalf in
18 reference to that?

19 A. Yes, ma'am.

20 MS. ARMIJO: And let's go ahead and start,
21 then, with 296, which is at Bates 6026.

22 (Tape played.)

23 Q. Okay. We have a name here, where Anthony
24 Baca is saying, "Santistevan pulled me out over in
25 Cruces one time." Who is Santistevan?

1 A. Dwayne Santistevan is director of STIU.

2 Q. Is that the same person you testified to
3 yesterday as being one of the persons that Anthony
4 Baca wanted hit?

5 A. Yes, ma'am.

6 Q. And in 2013?

7 A. Yes, ma'am.

8 Q. And when he says, "That fucker is
9 paranoid," who is he referring to?

10 A. Dwayne Santistevan.

11 (Tape played.)

12 Q. Now, what is it that he's talking about
13 here? We heard something about "recruit." What is
14 going on here?

15 A. He's just expressing that the Department
16 of Corrections fears us recruiting.

17 Q. Recruiting who?

18 A. Recruiting individuals into the SNM
19 organization.

20 Q. Okay. Continue.

21 (Tape played.)

22 Q. Now, in there, there is a mention of
23 "they've been brainwashed." Who were you all
24 talking about that's been brainwashed?

25 A. Rival gang members. The youngsters of the

1 rival gang members have been brainwashed by the
2 older generation into hatred towards the SNM.

3 And I'd like to also make a point of
4 emphasis --

5 MS. DUNCAN: Your Honor, I object. There
6 is no question pending.

7 Q. Is there something else in this call that
8 is important?

9 A. The importance in this conversation is the
10 word "fear." This is a motto, it's a philosophy
11 that the SNM uses to get our way within the
12 Department of Corrections. We like to embed fear
13 into people's hearts, including our rivals, to
14 overcome and be superior over people.

15 Q. And is that what you and Anthony Baca were
16 talking about?

17 A. Yes, ma'am.

18 MS. ARMIJO: At this time the United
19 States would move for the admission of 308.

20 THE COURT: Government's Exhibit 308 will
21 be admitted into evidence.

22 (Government Exhibit 308 admitted.)

23 MS. JACKS: Again, may we request a
24 limiting instruction?

25 THE COURT: Again, this will be a

1 conversation with Mr. Baca. You can only consider
2 this evidence in your deliberations of the charges
3 against Mr. Baca. You cannot consider it in
4 consideration of the charges against the other three
5 defendants.

6 MS. ARMIJO: All right.

7 (Tape played.)

8 BY MS. ARMIJO:

9 Q. "Chris got feria." Who is Chris that
10 you're referring to?

11 A. Chris Garcia is an SNM Gang member.

12 Q. What is feria?

13 A. Money.

14 Q. And he mentions, "But with a little bit of
15 finance behind it, it will get done, for sure."

16 What is it that you all are talking about
17 here?

18 A. He's expressing with a little bit of
19 finance, the hit will get done, for sure, in
20 reference to Marcantel and Santistevan being hit by
21 the SNM.

22 Q. All right. Go on.

23 (Tape played.)

24 Q. Now, what is he referring to there in that
25 paragraph?

1 A. He's referring to working with rival gang
2 members using soldiers from the SNM to put in work
3 for rival gang members and get paid with it from
4 drugs or money.

5 Q. All right. Continue.

6 (Tape played.)

7 Q. What is it they were referring to here?

8 A. He's referring to orders that he gave to
9 SNM Gang members to hit any of our rival gang
10 members no matter where we were, and we'd be
11 rewarded for it.

12 Q. All right.

13 (Tape played.)

14 Q. What's a huila?

15 A. Huila is a letter.

16 Q. All right. And in this incident, Anthony
17 Baca is talking about a specific incident. He says,
18 "When I got into it, juras -- and the juras fucking
19 bum-rushed my cot." Do you know what incident he's
20 referring to?

21 A. He got into an incident because he was
22 high and the COs noticed it.

23 Q. And is this the incident that he's
24 referring to here?

25 A. Yes, ma'am.

1 MS. DUNCAN: Your Honor, before we
2 continue, can we get a limiting statement about
3 Mr. Duran's statements?

4 THE COURT: Yeah. Mr. Duran's statements
5 are out-of-court statements and they're not relevant
6 here other than to give you context. So you can't
7 consider them for the truth of the matter; just for
8 the purpose of giving you context as to what Mr.
9 Baca is talking about.

10 All right. Ms. Armijo.

11 (Tape played.)

12 BY MS. ARMIJO:

13 Q. And is that more in reference to that
14 incident?

15 A. An important factor of this statement is
16 that he told Baby G to carry out a hit on Petey,
17 which is an individual that is a rival gang member
18 that was being housed with us. And Anthony Baca
19 wanted him hit because he was taking up a cell.
20 Instead of having an SNM Gang member living with us,
21 we had a rival gang member, and he wanted to get rid
22 of him.

23 Q. And was that information in the huila?

24 A. That information is in the statement.

25 Q. Well, it's in the statement, but he also

1 refers to --

2 A. He's just expressing it as it happened
3 while he was getting hemmed up by the correctional
4 officers.

5 MS. ARMIJO: And at this time we move for
6 the admission of 384.

7 THE COURT: Why don't y'all approach? And
8 Ms. Armijo, if you'll bring with you the pages that
9 you're going to introduce so I can be specific here.

10 (The following proceedings were held at
11 the bench.)

12 MR. MAYNARD: Judge, we have a client that
13 needs a bathroom break.

14 THE COURT: All right. Let me go ahead
15 and rule here.

16 MR. MAYNARD: Yes.

17 THE COURT: Let's go ahead and rule, and
18 then we'll take a break.

19 As far as 6311 through 13, I think they're
20 relevant and I think they're admissible because Mr.
21 Baca is arranging for Mario Montoya to get the gun
22 to use on Marcantel. So I'll overrule any objection
23 on that.

24 Now, 6313 to 24, I'm having a hard time
25 seeing how these pages are relevant, but I also

1 don't see how they're objectionable. And they do
2 provide some context to other exchanges. Do you
3 intend to get all those?

4 MS. ARMIJO: What I was going to play,
5 Your Honor, was beginning on 6311 and to through
6 6312. I was not counting on playing the other.

7 THE COURT: So 6313 to 24, you were not
8 playing?

9 MS. ARMIJO: No.

10 THE COURT: We'll exclude those.

11 MS. ARMIJO: So we should exclude those
12 too.

13 THE COURT: I didn't see how they were
14 relevant, other than relevancy grounds. They
15 provide no context. But if you don't need them,
16 then we won't worry about them.

17 6324 to 25, here's where it gets a little
18 trickier. Are you going to use any of those pages?

19 MS. ARMIJO: No.

20 THE COURT: Because there are some hearsay
21 statements about --

22 MS. ARMIJO: No, Your Honor.

23 THE COURT: -- someone named Becky and
24 Suboxone.

25 MS. ARMIJO: No.

1 THE COURT: So I'm skipping down to 628 to
2 29, and Baca is discussing sources of drugs, which I
3 think is relevant because the drug trafficking is a
4 racketeering activity. So if you're planning to
5 play those, I think those are okay, and I'll
6 overrule the objection to those.

7 MS. ARMIJO: Okay.

8 THE COURT: Do you need other rulings on
9 that?

10 MS. DUNCAN: And on 6328, where I'm
11 guessing --

12 THE COURT: Those are Baca's statements
13 there. So he's discussing sources of drugs, which I
14 think is relevant to the drug trafficking, is a
15 racketeering activity.

16 MS. DUNCAN: Okay. Thank you, Your Honor.

17 MR. JEWKES: Your Honor, I would like a
18 limiting instruction.

19 THE COURT: Do you want it before or after
20 the break?

21 MR. JEWKES: After the break, please.

22 (The following proceedings were held in
23 open court.)

24 THE COURT: All right. I'm going to
25 admit -- Government's Exhibit 384 will be admitted

1 into evidence.

2 (Government Exhibit 384 admitted.)

3 THE COURT: So let's go ahead and take our
4 morning break, and then we'll come back in and play
5 this tape. And before it's made, I'll give you the
6 same limiting instruction I've been giving as to the
7 other tapes. But I'll hold off on doing that until
8 we come back and refresh your memory about what
9 we're doing.

10 All right. We'll be in recess for about
11 15 minutes.

12 (The jury left the courtroom.)

13 THE COURT: All right. Anything we need
14 to discuss? All right. We'll be in recess about 15
15 minutes.

16 (The Court stood in recess.)

17 THE COURT: All right. We'll go on the
18 record.

19 Ms. Duncan, you had something you wanted
20 to raise?

21 MS. DUNCAN: Yes, Your Honor. Your Honor,
22 we missed one exhibit. It's Exhibit 344. There is
23 a brief portion over two pages that we would object
24 to. And I just gave it to Ms. Armijo.

25 THE COURT: All right. Well, give it to

1 me, then.

2 MS. DUNCAN: So Your Honor, it's Bates No.
3 6151. It starts with Mr. Duran saying, "Oh, oh, is
4 that what he was telling you, the red mummy?" And
5 then all the way to 6152. It's a little bit past
6 half the page. Mr. Baca says, "And that's serious
7 as fuck."

8 And so we would ask the Court to redact to
9 that point.

10 And then it's not redaction, but we just
11 had a general objection to Exhibit 330, which is a
12 discussion of who lives on Corrections grounds, and
13 it's Mr. Duran who raises the name of Mr. Marcantel.
14 And as the Court's aware, it's our position that
15 Mr. Duran is the mastermind of the Marcantel plot,
16 not Mr. Baca. And so we'd ask the Court to exclude
17 it as misleading.

18 THE COURT: All right. I'm having trouble
19 taking down all your objections. You're throwing a
20 lot at me. Why don't you just wait and not start
21 your second one until I get this one that you
22 missed?

23 Ms. Duncan, you're objecting to Exhibit
24 33?

25 MS. DUNCAN: 330, Your Honor.

1 THE COURT: Okay. All rise.

2 (The jury entered the courtroom.)

3 THE COURT: All right, Mr. Duran, I'll
4 remind you that you're still under oath.

5 THE WITNESS: Yes, sir.

6 THE COURT: The Government is going to
7 play 384, which I've admitted into evidence. This
8 is a conversation with Mr. Baca. You can only
9 consider it in the deliberations of charges against
10 Mr. Baca and not as to the charges against the other
11 three defendants.

12 All right. Ms. Armijo.

13 BY MS. ARMIJO:

14 Q. We're beginning at Bates 6311. Let's
15 stop. I'm sorry.

16 If you can look on the screen and see, who
17 is this conversation between?

18 A. Myself and Pup, or Anthony Ray Baca, and
19 Michael.

20 Q. And who is Michael?

21 A. Mario Montoya.

22 Q. Michael is Mario Montoya? Or is there
23 another individual named --

24 A. Oh. Michael Snow. Sorry. Which is
25 Anthony Ray Baca's cousin.

1 Q. Okay. And is this one of the recordings
2 where he's being recorded on your telephone that you
3 were provided with, and then you're talking to
4 Michael Snow, and Anthony Baca is next door. Does
5 that make sense?

6 A. Yes, ma'am.

7 Q. Is that the scenario that we're looking
8 at?

9 A. Yes, ma'am. My cellphone, and I'm also
10 recording on the recording device.

11 Q. So if we could play it now.

12 (Tape played.)

13 Q. What is a cuete?

14 A. A gun.

15 Q. Okay. And when you say he wants to know
16 if you can get him a cuete, who is the "he" you're
17 referring to?

18 A. Anthony Ray Baca.

19 Q. And do you know, based on this
20 conversation, what the firearm is for?

21 A. The firearm is going to be used in the
22 assassination of Mr. Marcantel or Santistevan.

23 Q. All right.

24 (Tape played.)

25 Q. And then it indicates that Anthony Baca

1 said, "I don't know about my ruca. Ask him." And
2 there is something, "if he remembers Mario Poo Poo."
3 What does ruca mean?

4 A. Girlfriend.

5 Q. And so -- and Mario Poo Poo -- who is that
6 in reference to?

7 A. Mario Montoya.

8 Q. His nickname being Poo Poo?

9 A. Yes.

10 Q. All right.

11 (Tape played.)

12 Q. Now, is this Anthony Baca asking for Mario
13 Montoya to pick up a gun from Michael Snow?

14 A. Yes, ma'am.

15 MS. ARMIJO: All right. Now I'm going to
16 move for the admission of 422.

17 THE COURT: All right. Well, I'm going to
18 have to take a break and review these transcripts.
19 So we'll be in recess for about 15 minutes, or as
20 long as it's going to take for me to review them.

21 All rise.

22 (The jury left the courtroom.)

23 THE COURT: All right. Let's be seated.
24 If the Government is only going to play like a
25 couple of lines out of all these transcripts, it's

1 killing me to review pages and pages that you're not
2 introducing. So can you tell me on 422 what you're
3 going to play?

4 MS. ARMIJO: Yes, Your Honor, but I think
5 our position has been that we still want the whole
6 transcript to go in. We're only highlighting
7 certain portions.

8 THE COURT: We'll be in recess, then.

9 MS. ARMIJO: But I can --

10 THE COURT: We'll be in recess.

11 (The Court stood in recess.)

12 THE COURT: Let me go ahead and make my
13 record, then, as to the transcripts that are not
14 being read. 6324 to 25 on Exhibit 384, I guess,
15 which is the tape playing, there are some hearsay
16 statements about whether someone named Becky can get
17 Suboxone. But those statements are relevant not for
18 their truth, but to show Mr. Baca's state of mind
19 when asking Michael to get Suboxone from Becky for
20 him.

21 So I don't know what you want to do. I
22 mean, the tape is coming in, but they're not playing
23 it in front of the jury, so I don't know how you
24 give a limiting instruction to something that's not
25 being played in the courtroom. But it may just not

1 be a big factor if they're not highlighting it and
2 putting it into evidence.

3 MS. DUNCAN: Your Honor, our position
4 would be maybe if it's not played in the courtroom,
5 it shouldn't go back to the jury; that we should be
6 limited to what is being played with these
7 witnesses, so the jury is not left -- it's just --

8 THE COURT: Well, they get to introduce
9 what they want, and you get to object to what you
10 want. So that's your position, but it's not going
11 to carry the day. So I'm ruling on your objections,
12 and I guess I'll have to go through, even though
13 it's not being played in the courtroom. What do you
14 want to do on this one?

15 MS. DUNCAN: For 422 we'd ask you to
16 redact the portions that we noted.

17 THE COURT: Well, 6324 to 25. I guess
18 what I need to do on these is: If the Government is
19 introducing all these tapes, I need to give a
20 limiting instruction to the jury to those pages when
21 they go back and consider them. Anybody see any
22 better way of doing it?

23 MS. JACKS: Your Honor, if I may, these
24 tapes are not admissible against Mr. Sanchez. But
25 it's my understanding of the rules of evidence that

1 in order for the jury to properly consider it, it
2 has to be presented in open court.

3 THE COURT: They're being presented, but
4 they're highlighting certain portions of it. If you
5 want to give me some case law that they have to play
6 the entire tape, you can. But I'm not aware of it.

7 MR. JACKS: And at this point, Mr. Sanchez
8 would object to the jury considering any evidence
9 that isn't presented on the record in open court in
10 front of the defendants.

11 THE COURT: So you want more played?

12 MR. JACKS: I don't want any of it played.
13 But that's why we asked for a separate jury and a
14 severance.

15 THE COURT: Well, but now you're asking
16 for more to be played.

17 MR. JACKS: What I'm asking is that the
18 jury not be considering evidence that's not
19 presented in open court. I think that's what the
20 Constitution requires.

21 THE COURT: All right. Well, here's what
22 I'm going to do: When we bring the jury back in,
23 I'll give a limiting instruction, tell them on
24 certain pages of the tape that they're not to
25 consider it. So I'll give them a limiting

1 instruction on that.

2 Let me start to try to deal with this
3 Exhibit 422. What I understand is -- let me give
4 you a range of pages here. Mr. Baca is objecting to
5 19944 through 46. 19955-54. 19- -- is that 54
6 or -- no, it's 59. 19960-62. 19968. 19972-73.

7 I'll go through these one at a time, but I
8 guess my short conclusion as to these pages is that
9 they all involve Baca bad acts that don't appear to
10 be SNM-related. So those acts are both irrelevant
11 and prejudicial, and need to be redacted.

12 Taking that first group specifically,
13 19944 to 46, a portion of this talks about using
14 drugs with a David -- is that Casias? -- who he met
15 in prison in 1983 to '84. He's buying but not using
16 drugs. I think buying drugs is the racketeering
17 activity, not the using drugs. And I don't see
18 anything linking this incident to the SNM.

19 The exchange regarding whether Baca
20 fathered CS's son is irrelevant.

21 And going to that next batch of material,
22 19955-59, Mr. Baca describes a murder he committed
23 in 1981, where he killed a guy hitting on his
24 friend's girlfriend, and subsequently tried to
25 intimidate witnesses. There is no evidence that the

1 murder, which took place outside of prison, was
2 SNM-related. Mr. Baca first went to Santa Fe for
3 this murder, so he might not have been an SNM member
4 yet.

5 The third group of pages here, Mr. Baca is
6 describing in rather cursory terms here several
7 out-of-prison murders. The only link to SNM is that
8 Mr. Baca refers to one of the killers as the carnal.
9 Is that Brian? What's he saying there? And then
10 on -- so the same problems with those.

11 19968, Mr. Baca states that someone used
12 to visit him when he was going to trial for a murder
13 he picked up at the Main prison. I guess that
14 murder might be relevant to the enterprise. But
15 this statement is not. I don't see how a visit is
16 going to get him.

17 All right. So with that, I think the rest
18 of 422 can come in. So you've got those.

19 MS. ARMIJO: Your Honor, we won't play
20 those. But for the redaction for Court purposes --
21 and I don't know, because I wasn't getting emails
22 from Ms. Duncan; I see that she sent me several.
23 But if we can either have that written down so we
24 can make sure that we get the right corrections, or
25 if Ms. Duncan gave me something, if we could have a

1 copy of that, just because I want to make sure that
2 we get it correct as to what goes back before the
3 jury.

4 THE COURT: So it's 19944 through 46;
5 19955 through 59; 19960 through 62; 19968; 19972
6 through 73.

7 MS. ARMIJO: Thank you.

8 THE COURT: All right. Did you have
9 anything else on that, Ms. Duncan? I'll bring the
10 jury in and see if we can get this tape done.

11 MS. DUNCAN: No, Your Honor, those are the
12 objections that we have.

13 THE COURT: Ms. Standridge, do you want to
14 get the jury in?

15 Ms. Standridge handed something up here,
16 transcripts. Are they from you, Ms. Armijo?

17 MS. ARMIJO: Your Honor, those are
18 transcripts that were ordered redacted by the Court
19 that are different from the copies that you have in
20 your notebook. They're based on the Court's
21 previous rulings on redactions.

22 THE COURT: Okay.

23 (The jury entered the courtroom.)

24 THE COURT: All right. Mr. Duran, I'll
25 remind you that you're still under oath. And

1 Government's Exhibit 422 is admitted into evidence.

2 (Government Exhibit 422 admitted.)

3 BY MS. ARMIJO:

4 Q. Mr. Duran, I believe previously we heard
5 Anthony Baca talking to Michael Snow about possibly
6 getting a firearm. Did that ever materialize, that
7 you're aware of?

8 A. No, ma'am.

9 Q. Was there a second person that was then
10 asked for a firearm?

11 A. Yes, ma'am.

12 Q. And who would that be?

13 A. Chris Garcia.

14 Q. All right. At this time we'd like to play
15 the first clip from Exhibit 422, which begins on
16 Bates 19939.

17 MR. JACKS: Your Honor, I'm sorry, but in
18 the confusion I don't know if the Court's given a
19 limiting instruction on this particular item.

20 THE COURT: All right. On this tape,
21 which is a conversation with Mr. Baca, you can only
22 use this conversation in your deliberations of the
23 charges, about the charges against Mr. Baca and not
24 as to the other three defendants.

25 MS. ARMIJO: All right. Could we play the

1 first clip?

2 (Tape played.)

3 BY MS. ARMIJO:

4 Q. All right. And how many firearms is
5 Anthony Baca asking for in this part of the
6 conversation?

7 A. He's requesting that Chris Garcia get him
8 two firearms.

9 Q. And if we could go to the second clip,
10 which begins on Bates 19941.

11 (Tape played.)

12 Q. There is a lot of conversation about
13 hiding something. What is this conversation about?

14 A. He's --

15 Q. Who is "he"?

16 A. Anthony Ray Baca is directing Chris Garcia
17 to hide the weapons that he's going to get in a
18 certain particular place that only that person would
19 know that's picking them up.

20 Q. Is that what they're trying to do, leave a
21 note or something so a person would know to pick it
22 up?

23 A. So they would know it's confirmation,
24 basically.

25 Q. All right. Continue.

1 (Tape played.)

2 Q. Now, who is Holly Holm, if you know?

3 A. Holly Holm is a world-famous UFC fighter
4 from New Mexico.

5 Q. And is there a reference to celebrating a
6 win of hers?

7 A. When she beat Ronda Rousey in the UFC
8 match.

9 Q. Now, after that conversation, were there
10 continued to be other conversations with Chris
11 Garcia about a firearm?

12 A. Yes, ma'am.

13 MS. ARMIJO: All right. And at this time
14 I'd move for the admission of 420.

15 THE COURT: All right. Well, I'm trying
16 to stay ahead, but I'm not quite able to do it. So
17 we'll be in recess for a few minutes. All rise.

18 (The jury left the courtroom.)

19 THE COURT: All right. We'll be in recess
20 for a few minutes.

21 (The Court stood in recess.)

22 THE COURT: All right. Let's go back on
23 the record. I'm looking at the typed sheet that Ms.
24 Duncan gave me this morning, and it's an email, I
25 guess, from Mr. Lowry to Ms. Duncan and to Ms.

1 Armijo. So I'm looking at those. This would be
2 transcript 419. So the audio of 420.

3 So on page 19906 there is a statement by
4 Baca that says, "Nah, Weasel -- Gay Weasel is kind
5 of healthy but he was living with others." That
6 whole statement is I think irrelevant. It refers to
7 people who have drugs but do not appear to be SNM.
8 So let's redact that.

9 The next page, down at the bottom, it's --
10 Baca says, "And here in the '70s, he used to sell
11 chiva right there in your neighborhood. Garcia:
12 Yeah."

13 I'd redact that as irrelevant. It again
14 refers to people who have drugs, but do not appear
15 to be SNM, so it's irrelevant.

16 Then 19910, oh, about two-thirds of the
17 way down it says, "Garcia: Yeah. Okay. Okay.
18 Yeah. Baca: He has -- he has" -- those two lines,
19 redact those as irrelevant. Again, it's referring
20 to people who seem to have drugs, but don't appear
21 to be SNM.

22 So I'll grant those redactions and let's
23 go to 19911 starting in the middle of the page, it
24 goes, "Baca: Intelligible." Then it starts,
25 "Garcia: She gets a little baseball team. No."

1 And then Baca down to where it says, "Baca: I was
2 UI caught up that night."

3 I think that's relevant if Baca was
4 selling drugs for SNM when this occurred. But is
5 there any evidence that that was occurring? I guess
6 it's more of a relevance issue for me, and I just
7 don't know if I have enough information to determine
8 that. If y'all want to try to convince me that he
9 was selling drugs at the time, there is some
10 evidence in the record that does it, then we can
11 leave it in. But I think it's only relevant if he
12 was selling drugs for SNM at the time, and I'm not
13 sure that this is clear enough to internally make
14 that clear.

15 All right. Then 19918, under that
16 statement -- well, I'll start with Garcia. "Garcia:
17 Yeah, and then when she got Chacon," all the way
18 down to again Garcia's statement, "Go rob somebody,
19 armed robbery, whatever, and get the money," again,
20 I think all that's inadmissible hearsay as well. So
21 that needs to be redacted.

22 19923, pretty much this page, but let me
23 be a little bit more precise. The confidential
24 human source, "The first one time" down to the rest
25 of the page. So where it says, "That -- does that

1 chick do drugs," from there on down, I think the
2 rest of that is inadmissible hearsay.

3 And that's the problem with 1924, the
4 entire page there.

5 Then on 1925, the redactions continue down
6 to the middle of page where it says "Baca" and "UI,
7 voices overlap."

8 So redact the top of the page and then the
9 rest starting with "Baca and UI voices overlap,"
10 that can remain in. So "Garcia: Yep" is the last
11 redaction on that page.

12 So I'm granting the redactions except
13 19911, which is admissible only if the Government
14 links it to SNM some way, some way that Mr. Baca is
15 selling drugs.

16 All right. Are we ready to go with 420?
17 Otherwise I'll admit 420.

18 (Government Exhibit 420 admitted.)

19 THE COURT: Anything else on that, Ms.
20 Duncan? That is clear enough?

21 MS. DUNCAN: Your Honor, thank you.

22 THE COURT: So Exhibit 420 will be
23 admitted.

24 Take out that redaction as to Mr. Baca
25 selling drugs, that portion on 9, unless you want to

1 come back and argue that you've got evidence
2 somewhere.

3 19911, that one needs to come out unless
4 the Government wants to make a further record on
5 that.

6 All right. Ms. Standridge, do you want
7 bring in the jury?

8 MR. JACKS: And Your Honor, would the
9 Court provide a limiting instruction?

10 THE COURT: I will.

11 MS. DUNCAN: Your Honor, before the jury
12 comes in, I just noticed Mr. Cordova's lawyer came
13 into the courtroom, so I was hoping that the Court
14 could talk to him.

15 THE COURT: And who is Mr. Cordova's
16 lawyer? I can't see back there. Oh, Mr. Samore.

17 MR. SAMORE: Judge.

18 THE COURT: All right. Mr. Samore, I
19 haven't been excluding all the attorneys that are a
20 little bit ahead of the anticipated testimony of
21 their clients. But will you just give me your
22 assurance that you will not be a conduit for what's
23 going on in this court? The Rule has been invoked.
24 So you're welcome to stay as long as you give me
25 your word you won't be a conduit to Mr. Cordova.

1 MR. SAMORE: You have my word.

2 THE COURT: So don't tell him what's going
3 on in here since we've invoked the rule.

4 MR. SAMORE: I really don't know what's
5 going on.

6 THE COURT: I'm redacting transcripts,
7 ruling on objections to transcripts. That's what
8 I'm doing. And I'm not staying ahead of everyone.

9 All rise.

10 (The jury entered the courtroom.)

11 THE COURT: All right, Mr. Duran, I'll
12 remind you that you're still under oath.

13 MR. DURAN: Yes, Your Honor.

14 THE COURT: And I'm going to admit
15 Government's Exhibit 420 into evidence and it's
16 going to be a conversation with Mr. Baca. So,
17 again, you can consider this as evidence only in
18 your connection with your deliberations as to the
19 charges against Mr. Baca, and you may not consider
20 it in your deliberations in any way as to the other
21 three defendants.

22 Ms. Armijo.

23 MS. ARMIJO: All right. Thank you. And
24 with that we will play the clip.

25

1 BY MS. ARMIJO:

2 Q. And I guess before we start it, Mr. Duran,
3 can you look and see if this is another conversation
4 that involves Anthony Baca and Chris Garcia?

5 A. Yes, ma'am.

6 Q. All right. Let's go ahead.

7 (Tape played.)

8 Q. And there, there is, "Give him one. Don't
9 give him two." What is it that we're talking about?

10 A. Anthony Ray Baca is directing Chris Garcia
11 to give Mario Montoya just one gun instead of two.

12 Q. All right. Continue.

13 (Tape played.)

14 Q. Now, there is mention there of tripping on
15 something and glass. What are you referring to?

16 A. He's referring to methamphetamines.

17 Q. All right.

18 (Tape played.)

19 Q. And the one that's being referred to --
20 what is the one going to be used for?

21 A. The one is going to be used to commit the
22 assassination against the Secretary of Corrections,
23 Gregg Marcantel, or the director of STIU, Dwayne
24 Santistevan.

25 Q. And there is mention here of, "He can try

1 to erase any numbers on that." Do you know what
2 that is in reference to?

3 A. So he's giving him a directive to erase
4 the serial numbers off the weapon so it can't be
5 traced back to the original owner.

6 Q. Okay. And I believe there was also talk
7 about, you know, "If he messes up, that's it for
8 him." What is that in reference to? Or "cut him
9 off," something to that effect?

10 A. It's just making an expression that if
11 Mario messes up this hit or his obligation to do
12 what he needs to do, just to cut him off of
13 activities, get rid of him.

14 MS. ARMIJO: Now, the next item we have is
15 Exhibit 416. And I don't know if there are any
16 objections to 416.

17 THE COURT: Yeah, there are. Why don't we
18 go ahead and take our lunch break, and maybe I can
19 get caught up on the lunch break on ruling on these.

20 All right. We'll be in recess for about
21 an hour.

22 (The jury left the courtroom.)

23 THE COURT: All right. We'll be in recess
24 for about an hour.

25 (The Court stood in recess.)

1 THE COURT: All right. Let's go on the
2 record and let me make some rulings for you on three
3 transcripts, and then I think I'll owe you two more,
4 but they're the last two.

5 As to 416, which is transcript 417, if you
6 look at 19795 to 19799, which goes down to the -- I
7 think it's the sixth "Pup" entry, so I think that's
8 irrelevant, so it goes down to the "Pup: Yay." So
9 all of 19795 to 99 is irrelevant unless the criminal
10 activity described is tied to the SNM. It
11 internally doesn't do it. So if the Government
12 wants to make another run at trying to get this in,
13 you'll need to tie it to SNM activities, but
14 internally I can't make it that it is.

15 Then after that where Pup says, "Yay,"
16 after that on 799 to 19800 -- so 19799 after the
17 sixth Pup entry to 19800, it looks relevant because
18 it refers to an SNM hit. So I'm overruling the
19 objection to it.

20 Then 19802 to 803 is irrelevant. I don't
21 see the relevancy of it.

22 19804 to 19806 I do think is relevant
23 because these incidents appear -- or a reasonable
24 jury I think could conclude that these statements
25 describe an SNM activity. So I'm going to leave

1 those in.

2 And then 19809 to 19812, these statements
3 describe SNM activity, so they are relevant.

4 So those are my rulings as to 416. And
5 otherwise, it can be admitted.

6 Then Ms. Duncan made objections to 330,
7 which is transcript 331, and I think Mr. Baca is
8 objecting to this transcript as misleading.

9 Mr. Baca's statements are admissible as a
10 statement by a party opponent. The CHS's statements
11 can come in because they have no truth value. If
12 you want a limiting instruction on the CHS's
13 statements, you can have it. But they have no truth
14 value, but they have value putting things in
15 context.

16 The statements have probative value as to
17 the Marcantel conspiracy, so I do think that they
18 are relevant. If they are misleading -- and I don't
19 think they are -- I think that can be cleared up on
20 cross-examination rather than excluding the
21 testimony. So I'll overrule Mr. Baca's objection to
22 330 and transcript 331.

23 And then Ms. Duncan raised this morning
24 more objections, two more objections, to 344, pages
25 61 to 51 and 61 to 52. And it starts with Mr. Duran

1 saying, "Oh, oh, is that what he was telling you,
2 the red mummy?" And all the way down to 6152, the
3 little bit past the page, past half the page, and
4 Mr. Baca says, "And that's serious as fuck." And
5 Mr. Baca asked the Court to redact to that point.

6 But the portions that Mr. Baca asked to be
7 redacted I think are relevant. They cover a crime
8 that an SNM member committed in front of Mr. Baca's
9 family. The relevant statements come from Mr. Baca.
10 So it will become the hearsay rule, and then
11 Mr. Duran's statements come in; they have no truth
12 value. So again, if a limiting instruction is
13 desired on that -- but I do think that they come in,
14 because while they don't have any truth value, they
15 do provide the context for Mr. Baca's statements,
16 which I think are relevant.

17 So with those rulings, I'll admit 416, 330
18 and 344.

19 (Government Exhibits 330, 344, and 416
20 admitted.)

21 THE COURT: And then I'm still working on
22 418 and 348.

23 I think that's it. If somebody else has
24 got something else to rule on, I think that will
25 cover it once I give you 418 and 348. Is that

1 right, Ms. Duncan?

2 MS. DUNCAN: That's correct, Your Honor,
3 and I think the Government is also planning to play
4 Exhibit 328, and we do not have any objections to
5 that.

6 THE COURT: That's what my notes reflect,
7 too. So I owe you two more.

8 All right. Anything else to discuss
9 before we bring in Mr. Duran and the jury? Anything
10 else from the Government, Ms. Armijo?

11 MS. ARMIJO: No, Your Honor.

12 THE COURT: How about any of the
13 defendants? Do they have anything to discuss?

14 Mr. Del Valle, if this afternoon in
15 cross-examination you want to be closer to
16 Mr. Duran, we had a chair up here yesterday for Mr.
17 Candelaria, so feel free to come up and take that
18 place, if you want it.

19 MR. DEL VALLE: Thank you, Your Honor. I
20 intended on doing so.

21 THE COURT: Okay. All rise.

22 (The jury entered the courtroom.)

23 THE COURT: All right. Please be seated.

24 All right. Mr. Duran, I'll remind you
25 that you're still under oath.

1 The Court will admit Government's Exhibit
2 420.

3 (Government Exhibit 420 admitted.)

4 THE COURT: Ms. Armijo, if you wish to
5 continue your direct examination of Mr. Duran, you
6 may do so at this time.

7 MR. JACKS: Your Honor, may we request a
8 limiting instruction, please?

9 THE COURT: The tape that's going to be
10 played again is a conversation with Mr. Baca so you
11 can only use this tape in your deliberations as to
12 the charges against Mr. Baca and not as to the other
13 three gentlemen.

14 All right, Ms. Armijo.

15 MS. ARMIJO: Your Honor, I believe that we
16 were done with 420. We're now on 416.

17 THE COURT: Did I say 420? All right. So
18 Government's Exhibit 416 will be admitted. All
19 right.

20 (Government Exhibit 416 admitted.)

21 BY MS. ARMIJO:

22 Q. Before we play that, Mr. Duran, are you
23 aware of -- the calls that we're listening to now
24 are with reference to Anthony Baca and Chris Garcia.
25 Did you also have calls with Anthony Baca and Mario

1 Montoya?

2 A. Yes, ma'am.

3 Q. And so are you aware of whether or not at
4 some point -- was Chris Garcia at some point made
5 aware of what the firearms were going to be used
6 for?

7 A. Yes, ma'am.

8 Q. And was he?

9 A. He was aware of that, ma'am.

10 Q. All right. Do you know if initially he
11 was, or was he made aware of that later?

12 A. Not initially. It was supposed to be a
13 secret kept from him.

14 Q. And then at some point he's made aware of
15 it?

16 A. At some point he's made aware of it, yes.

17 Q. Now, going to 416, if we could play the
18 first clip, this is Bates 19762.

19 MS. JACKS: Your Honor, I'm not sure we
20 have the limiting instruction with regard to this
21 one yet.

22 THE COURT: I thought I gave it. This
23 conversation relates only to a conversation with Mr.
24 Baca and you can only consider it for purposes of
25 your deliberations of charges against Mr. Baca and

1 not as to the other three gentlemen.

2 (Tape played.)

3 BY MS. ARMIJO:

4 Q. Does this appear to be more conversation
5 about putting the firearm someplace safe?

6 A. Yes, ma'am. It's just going back to
7 putting it in a secret location, details that they
8 had got into in previous conversations. Now he has
9 the weapons and he's going to do it.

10 Q. Okay. And going to the second clip, which
11 is 19763.

12 (Tape played.)

13 Q. Now, there is mention again to the juras
14 in this. What are the juras?

15 A. The juras are the cops.

16 Q. And you indicated that this is now a time
17 when it was your understanding that Chris Garcia had
18 actually obtained a firearm?

19 A. Yes, ma'am.

20 Q. As opposed to before, just talking about
21 if he got a firearm?

22 A. Yeah, opposed to if he got a firearm, what
23 would he do with it. Now that he has it, he got
24 direction from Anthony Ray Baca to put it in a
25 secret location to be picked up by the assailant,

1 which would have been Mario Montoya.

2 MS. ARMIJO: I now move for the admission
3 of 328.

4 THE COURT: Government's Exhibit 328 will
5 be admitted into evidence.

6 (Government Exhibit 328 admitted.)

7 BY MS. ARMIJO:

8 Q. I believe we're going to start the clip at
9 6087.

10 MR. JACKS: May we again request a
11 limiting instruction?

12 THE COURT: Again, all these tapes you're
13 hearing through Mr. Duran are related to
14 conversations with Mr. Baca so you can only consider
15 them in connection with the charges against Mr. Baca
16 and not as to the other three defendants.

17 BY MS. ARMIJO:

18 Q. And in looking at this recording, are you
19 familiar with who this recording is between?

20 A. Myself and Anthony Ray Baca.

21 Q. Okay. If you could go ahead and start.

22 (Tape played.)

23 Q. Now, there is mention of "they have
24 banquets and charity gatherings." What's this
25 conversation about?

1 A. This conversation is about Anthony Ray
2 Baca trying to discover locations of the targets so
3 we could pinpoint their whereabouts, and he's giving
4 me directive to research it on my cellphone, which I
5 eventually tell him I have no internet and I can't
6 research it.

7 Q. Now, and when you say "the targets," who
8 are the targets?

9 A. The targets are the Secretary of
10 Corrections, Gregg Marcantel, or STIU director
11 Dwayne Santistevan.

12 Q. All right. If we could continue.

13 (Tape played.)

14 Q. Are you aware of what Anthony Baca is
15 referring to in this part of the conversation?

16 A. Yes, ma'am.

17 Q. And can you explain that?

18 A. He's describing the area that's around --
19 which is where most of the authorities live that
20 work either in the prison or retired, and it's
21 around the prison area. It's where the PNM North
22 is. And the PNM South is built where the Old Main
23 used to be. There's like housing on the side of
24 that area, which is where a lot of these officers
25 live.

1 Q. And is that where he was referring to
2 where he was able to see it on his way in, and then
3 also refer to Oasis Street?

4 A. Yes, ma'am.

5 (Tape played.)

6 Q. And do you know who Robert Bustos is?

7 A. No, ma'am.

8 Q. He's just referring to somebody where he
9 found out where the person lived?

10 A. Yes, ma'am.

11 MS. ARMIJO: Your Honor, at this time we'd
12 move the admission of 330.

13 THE COURT: Government's Exhibit 330 will
14 be admitted into evidence.

15 (Government Exhibit 330 admitted.)

16 MR. JACKS: May we request a limiting
17 instruction?

18 THE COURT: Again, this is conversation
19 with Mr. Baca, and you can only consider it in your
20 deliberations as to the charges against Mr. Baca and
21 not the other three defendants.

22 BY MS. ARMIJO:

23 Q. Did you have continuing conversations with
24 Anthony Baca about where the possible targets might
25 live?

1 A. Yes, ma'am.

2 Q. And let's go to 330.

3 (Tape played.)

4 Q. And in this one, you indicated -- so you
5 think Marcantel is living there? And who were you
6 referring to?

7 A. The Secretary of Corrections, Gregg
8 Marcantel.

9 Q. Okay. And what is the point of trying to
10 figure out where he lives?

11 A. So the information could be handed down to
12 the assailant who is going to assassinate the
13 Secretary of Corrections.

14 Q. And what premises, again -- are those the
15 same premises you were referring to in the earlier
16 recording where there are some premises that are
17 possibly near the grounds of PNM?

18 A. Yes, ma'am. It's a continuance of
19 conversations that we're having about the premises
20 around the penitentiary.

21 MS. ARMIJO: And Your Honor, at this time
22 I'd like to move for the admission of 344.

23 THE COURT: Government's Exhibit 344 will
24 be admitted into evidence.

25 (Government Exhibit 344 admitted.)

1 MS. JACKS: May we request a limiting
2 instruction?

3 THE COURT: All right. This, again, just
4 relates to a conversation with Mr. Baca. So Mr.
5 Baca's statements can only be used in connection
6 with your deliberation as to the charges against
7 him. And you may not use them in your deliberations
8 as to the charges against the other three
9 defendants.

10 Ms. Armijo.

11 MS. ARMIJO: If we could play the clip.

12 (Tape played.)

13 BY MS. ARMIJO:

14 Q. Now, we're talking about Rio Rancho. Do
15 you know what this is in reference to?

16 A. This is in reference to him receiving
17 information through Mario Montoya that he has
18 received information that the target, which is the
19 Secretary of Corrections Gregg Marcantel, lives in
20 Rio Rancho.

21 Q. Okay. So now the focus isn't on the
22 houses that are on the premises of PNM and now
23 possibly that Gregg Marcantel lives in Rio Rancho?

24 A. Yes, ma'am.

25 Q. Now, are you aware of through -- did there

1 come a point in time when you became aware that a
2 gun was actually exchanged between Chris Garcia and
3 Mario Montoya for the purposes of carrying out any
4 sort of hits?

5 A. Yes, ma'am.

6 Q. And how were you made aware of that?

7 A. Me and Anthony Ray Baca made a phone call
8 to Chris Garcia, who confirmed that the weapon was
9 picked up at around 10:00 in the morning that day
10 that we had called him.

11 MS. ARMIJO: All right. Your Honor, with
12 that, the United States would move for the admission
13 of 418.

14 THE COURT: All right. Why don't counsel
15 approach here?

16 (The following proceedings were held at
17 the bench.)

18 THE COURT: If you need to rest it up
19 there, you're welcome to.

20 All right 19832, the second "Garcia" to
21 19832, the third "Garcia." All that inclusive is
22 inadmissible hearsay, so that should be redacted
23 out.

24 MS. ARMIJO: Can you give those again?

25 THE COURT: 19832 starting with the second

1 "Garcia" down to 19835 through the third "Garcia."
2 And then on 19838, starting at the fourth "Baca" and
3 going to 19839, the third "Baca," through the third
4 Baca, all that is irrelevant. So redact that.

5 MS. ARMIJO: Okay.

6 THE COURT: The 19840, starting with the
7 third "Garcia," through 19840, so it's all the same
8 page, but the fourth "Garcia," so that little bit is
9 inadmissible hearsay. 19841, the third "Garcia"
10 through 19842, the fourth "Baca," that's
11 inadmissible hearsay, so that should be taken out.

12 19859, starting with the second "Garcia,"
13 through 19859, the fifth "Baca," inclusive, all that
14 is inadmissible hearsay.

15 MS. DUNCAN: It was the second "Garcia" to
16 the fifth "Baca"?

17 THE COURT: Yeah, those are on the same
18 page there. So the second "Garcia" through the
19 fifth "Baca."

20 Then 19860 starting with the sixth
21 "Garcia" through 19861, through the fourth "Garcia,"
22 that's inadmissible hearsay and should be redacted.

23 19865, starting with the fifth "Garcia,"
24 going through 19866, the third "Garcia," that's
25 inadmissible hearsay and all that should be

1 redacted.

2 And then the final one is a little bit
3 like we've confronted before. I'll order it
4 redacted at the present time. If the Government
5 wants to come in and try to fight for it, they can.
6 But at the moment, it will be redacted unless I hear
7 otherwise.

8 So it's 19870, starting with the fifth
9 "Garcia," to the end of that page. The fight that
10 Mr. Baca describes is only relevant if it's an
11 SNM-related one, and internally there is not
12 evidence for me to make a determination that it is.
13 So without more information, that will have to be
14 redacted. The rest of 418 are okay and can come in.

15 MS. ARMIJO: I'm sorry, Your Honor. The
16 last one was --

17 THE COURT: 19870, starting with the fifth
18 "Garcia" to the end of the page.

19 MS. ARMIJO: Okay.

20 THE COURT: Let me just make sure it's --
21 actually, it's not the end of the page. It's the
22 end of the transcript. So it will be through 19872.

23 MS. ARMIJO: Got it.

24 THE COURT: All right. Clear enough?

25 MS. ARMIJO: Yes, sir.

1 MR. JEWKES: Your Honor, and a limiting
2 instruction with regard to Mr. Sanchez.

3 (The following proceedings were held in
4 open court.)

5 THE COURT: All right. So Government's
6 Exhibit 418 will be admitted into evidence.

7 (Government Exhibit 418 admitted.)

8 THE COURT: And again, these are comments
9 or statements by Mr. Baca on this tape. And you can
10 only consider them as to -- in your deliberations as
11 to Mr. Baca and not as to the other three
12 defendants.

13 All right, Ms. Armijo.

14 MS. ARMIJO: We're going to play 418.

15 (Tape played.)

16 BY MS. ARMIJO:

17 Q. All right. Now, they're referring to an
18 individual, and when I say "they," it looks like
19 this conversation is between Anthony Baca and Chris
20 Garcia?

21 A. Yes, ma'am.

22 Q. And who are they talking about?

23 A. They're referring to the assailant, which
24 is Mario Montoya, who picked up the weapon.

25 Q. All right. And just to be clear, I think

1 you said it previously, but at this point are you
2 aware that Mario Montoya was working with law
3 enforcement?

4 A. No, ma'am.

5 Q. All right. Go ahead.

6 (Tape played.)

7 Q. Right there, there is a sentence to "We're
8 trying to get that shit taken care of as soon as
9 possible." What is that in reference to?

10 A. In reference to the hit on Marcantel, the
11 Secretary of Corrections.

12 Q. Now, are you aware of approximately when
13 this conversation took place?

14 A. This conversation took place on, I
15 believe, December 3.

16 Q. Okay. Well, wait. And I'm going to put
17 something in context here. If you were arrested on
18 December 3 -- and I have another -- are you aware if
19 this conversation was on December 3 and -- well,
20 or -- let me play it.

21 A. It might have been December 2.

22 Q. Okay. If we go back to the beginning of
23 this conversation, he says that the gun was picked
24 up the day before. Can we put it in context of when
25 the gun was picked up?

1 A. The day before they were arrested.

2 Q. All right. So that would be a way of
3 telling when this conversation took place; correct?

4 A. Yes, ma'am.

5 Q. All right. Now, you mentioned December 3.
6 What happens on December 3?

7 A. The FBI came and arrested Anthony Baca and
8 other SNM members that were housed in the same unit
9 that I was housed in.

10 Q. All right. And was that a Thursday, if
11 you recall?

12 A. I don't recall.

13 Q. Okay. Were you aware that that was going
14 to happen that day, or were you -- had you not been
15 told?

16 A. I wasn't aware that that was going to
17 happen that day, no.

18 Q. Now, from the time that the gun was picked
19 up, is the 3rd just a matter of a few days later?

20 A. Within a day, I believe.

21 Q. All right. If December 3 is a Thursday
22 and the gun was picked up on the weekend, is it
23 possible that there was more than three or four days
24 between the gun being picked up and the roundup on
25 December 3?

1 MS. DUNCAN: Your Honor, I'm going to
2 object. The witness has answered the question. Now
3 she's leading him.

4 A. If it was picked up on a weekend --

5 THE COURT: Hold on. Let me rule on the
6 objection.

7 I think it's an appropriate question.
8 I'll allow it. Overruled.

9 A. So I'm unclear exactly when the weapon was
10 picked up, on what day.

11 BY MS. ARMIJO:

12 Q. All right. Because you were not there?

13 A. Yes, ma'am.

14 Q. And you do know that there was a
15 conversation that occurred in which Chris Garcia is
16 telling you that the firearm is picked up; correct?

17 A. Yes, ma'am.

18 Q. And then in between the time that you
19 learn that the firearm is picked up, what's going on
20 between you and Anthony Baca? I mean, are you
21 discussing it? At this point you know that Mario
22 Montoya has the firearm. What's going on?

23 A. Me and him are having discussion, and he
24 was having trouble sleeping because he was trying to
25 wake up in the morning to watch the news if the

1 Secretary of Corrections was murdered.

2 MS. ARMIJO: All right, Your Honor, I'm
3 going to move for the admission of 348.

4 THE COURT: All right. If counsel will
5 approach.

6 (The following proceedings were held at
7 the bench.)

8 THE COURT: All right. On 6171 to page
9 6172 -- so it will start right underneath stuff
10 we've already redacted. I'm using the redacted
11 pages. Do you have those?

12 MR. BECK: Yes.

13 THE COURT: So anyway, that's inadmissible
14 hearsay. So we need to take that out. So you know
15 that the redactions -- I think it's inadmissible
16 hearsay. Same problem on 6173. So 6171 to 73 is
17 inadmissible hearsay. And then 6173 to 6174, that's
18 inadmissible hearsay, as well.

19 MS. DUNCAN: I'm sorry -- so you're ruling
20 that page 6171, 6172 and 6173 --

21 THE COURT: Yeah, on 6171, I think it's
22 just down to where it says, "Pup: Yeah, Spanish,
23 pause," take that out. Then the rest of it is sort
24 of intro. And then on 6171 it's everything between
25 the two redactions.

1 Then 6172, everything under the redactions
2 down through that "Pup: Yeah, Spanish, pause."

3 And then on 6173, starting where it says
4 "Confidential source: So anyways, yeah, that's why
5 he was mad, though." The rest of that page and then
6 on 6174, down to "CHS: What did Blue say when he
7 told him?" And you could leave that and we can
8 leave off the first sentence of the Pup. I guess
9 you can leave the rest of the page in.

10 So then 6180, where it says in the middle
11 of the page, "Pup: Unintelligible, fuck who don't
12 never say nothing new," then the CHS's response,
13 those two statements need to be pulled out. Those
14 are inadmissible hearsay.

15 So I'm sustaining three objections on
16 inadmissible hearsay. Got those? Otherwise, it
17 will come in.

18 MR. JEWKES: And Your Honor, obviously,
19 Mr. Sanchez asks for a limiting instruction.

20 THE COURT: All right.

21 MR. JEWKES: Thank you.

22 (The following proceedings were held in
23 open court.)

24 THE COURT: All right. Government's
25 Exhibit 348 will be admitted into evidence.

1 (Government Exhibit 348 admitted.)

2 THE COURT: Again, these are statements of
3 Mr. Baca and they may only be used by you in your
4 deliberations of the charges against Mr. Baca and
5 not in your deliberations against the other three
6 defendants.

7 Ms. Armijo.

8 MS. ARMIJO: Let's start with the first
9 clip, which is on Bates 6161.

10 (Tape played.)

11 BY MS. ARMIJO:

12 Q. All right. Who is Styx?

13 A. Styx is Gerald Archuleta, and he is a
14 high-ranking SNM member.

15 Q. All right. And in this portion, is
16 Anthony Baca indicating that he is above Styx?

17 A. Yes, ma'am.

18 Q. All right. We can go to the second clip,
19 which begins on 6164.

20 (Tape played.)

21 Q. Now, you're talking about Eme. And I
22 believe you say it, "Eme." What Eme are you
23 referring to?

24 A. The Eme is the Black Hand in California,
25 Mexican Mafia.

1 Q. And you're asking -- you're talking
2 about -- you say, "If Mario hits the fucking
3 secretary." What are you referring to?

4 A. I'm referring to the Secretary of
5 Corrections, Gregg Marcantel.

6 Q. And why are you talking about notoriety
7 with that?

8 A. Asking Anthony Ray Baca if we were going
9 to get notoriety or credibility through the hit on
10 the Secretary of Corrections.

11 Q. And what is his belief?

12 A. He believed that we would.

13 Q. All right. Going to the third clip, which
14 begins on 6168.

15 (Tape played.)

16 Q. And what are you starting to talk about
17 here with Anthony Baca?

18 A. Anthony Baca is expressing to me his
19 willingness to go above and beyond of the
20 consequences to assassinate Secretary of Corrections
21 Gregg Marcantel, and directing me to have Chris
22 Garcia, which is an SNM Gang member who provided the
23 weapon, destroy evidence so nothing would link them
24 back to the SNM.

25 Q. All right.

1 (Tape played.)

2 Q. All right. And what is this in reference
3 to?

4 A. This is in reference to Mario Montoya
5 being in the area of the Secretary of Corrections'
6 residence, and him being spotted by camera
7 transaction footage, which would probably be around
8 Secretary of Corrections Gregg Marcantel's house.

9 Q. All right. If we could play the next
10 clip.

11 (Tape played.)

12 Q. Now, there is mention of getting up early
13 and watching the news. Are you aware of what --
14 based on the entire conversation, what Anthony Baca
15 was watching the news for?

16 A. He was watching the news in hopes that he
17 would see the Secretary of Corrections, Gregg
18 Marcantel, murdered; and we believed through a phone
19 call that it was supposed to happen that night. So
20 he was anxious and obviously expressing anxiety by
21 being up early to watch the news.

22 Q. And let's watch the next clip.

23 (Tape played.)

24 Q. Are you aware of what this is in reference
25 to?

1 A. This is in reference to the Javier Molina
2 murder. All the individuals that were officially
3 charged with state charges, they had dropped the
4 state charges and the SNM members had assumed that
5 the federal government was going to pick up those
6 charges, so we were kind of nervous at this point.

7 Q. And when the state charges were dismissed,
8 did it say in lieu of federal prosecution? Is that
9 how they were made aware of it?

10 A. Yes, ma'am.

11 Q. And so is that when Pup is saying, "Well
12 it's -- it's a federal thing now?" Is that in
13 reference to at least knowing at least the Molina
14 incident was going to be federal?

15 A. He was acknowledging that Jerry Armenta
16 wasn't a state witness no more. He was a federal
17 witness now.

18 Q. All right. Playing 318. Continue
19 playing.

20 (Tape played.)

21 Q. And whose family is he referring to?

22 A. He's referring to Jerry Armenta's family
23 and expressing that we'll also get a lot more power,
24 notoriety, and credibility through hitting his
25 family members if he testifies.

1 Q. All right. Now, December 3, you indicated
2 that there was shakedown in the prison and people
3 were arrested?

4 A. Yes, ma'am.

5 Q. And when that occurred, did they shake you
6 down, as well, to make it appear as if -- did they
7 shake down all SNM members that were in the prison;
8 are you aware?

9 A. They shook down the whole pod, yes, ma'am.

10 Q. Did they shake you down?

11 A. Yes, ma'am.

12 Q. And was your phone taken at that time?

13 A. My phone and the recording device was
14 taken yes, ma'am.

15 Q. Now, after that, did you have more time to
16 do on your sentence?

17 A. Yes, ma'am.

18 Q. And did you stay in custody after December
19 3 of 2015?

20 A. Yes, ma'am.

21 Q. When was it that you were released, if you
22 can recall?

23 A. I was released September 14 of 2016.

24 Q. And was that your original release date,
25 or do you know if Corrections did anything to get

1 you an early release for anything?

2 A. The Department of Corrections had awarded
3 me a lump sum, which is within their guidelines of
4 their policies and procedures for saving lives.

5 Q. And whose lives did you save?

6 A. Gregg Marcantel, Secretary of Corrections,
7 and Dwayne Santistevan, Director of Security Threat
8 Intelligence Unit.

9 Q. And so how long of time being in was your
10 time cut?

11 A. By about two years.

12 Q. And when you got out, were you still
13 working for the FBI?

14 A. Yes, ma'am.

15 Q. Did the FBI locate -- relocate you to a
16 different part of the country?

17 A. Yes, ma'am.

18 Q. And do you know why they relocated you to
19 a different part of the country?

20 A. They relocated me to a different part of
21 country to keep me and my family safe from the SNM
22 Gang members.

23 Q. When you relocated, did you continue
24 working for the FBI, but a different FBI agent?

25 A. Yes, ma'am.

1 Q. Were you involved in an ongoing
2 investigation by the FBI agents in that state?

3 A. Yes, ma'am.

4 Q. And that was -- I guess you said you were
5 released in late 2016; correct?

6 A. Yes, ma'am.

7 Q. And did that continue through 2017?

8 A. Yes, ma'am.

9 Q. Now, did you also receive benefits from
10 the FBI as far as monetarily?

11 A. Yes, ma'am.

12 Q. And do you know how much approximately
13 over the time period that you have been rewarded?

14 A. I would say approximately \$50,000.

15 Q. And was part of that money used for
16 relocation?

17 A. Mostly it was used to relocate, yes,
18 ma'am.

19 Q. Now, did you have some problems, once you
20 were out there, kind of out of custody, getting back
21 used to being in society? Was it difficult?

22 A. It was difficult at times, yes, ma'am.

23 Q. Did your family move out with you?

24 A. They moved out to where I was located for
25 a few months, yes, ma'am.

1 Q. Okay. And I guess I should ask, were you
2 married at the time?

3 A. Yes, ma'am.

4 Q. Did you have any children?

5 A. Yes, ma'am. I have a daughter.

6 Q. Okay. And is she your daughter, or is she
7 your stepdaughter?

8 A. She's my stepdaughter, but I've raised
9 her, her whole life.

10 Q. And did your wife and she move out with
11 you?

12 A. Yes, ma'am.

13 Q. Now, was there an incident in May of 2017
14 in which authorities were investigating you for
15 possibly slapping or assaulting your stepdaughter?

16 A. Yes, ma'am. There was allegation through
17 the school that I had disciplined my child
18 unnecessarily. And I spoke to authorities and it
19 was later proven that I didn't break the law or harm
20 my child in any way.

21 Q. Were you ever arrested for the incident?

22 A. No, ma'am.

23 Q. Was your daughter ever taken away from
24 you?

25 A. No, ma'am.

1 Q. Was the FBI made aware of the situation?

2 A. Yes, ma'am.

3 Q. And if you do any new crimes, would that
4 have ended your affiliation with working with the
5 FBI?

6 A. Yes, ma'am.

7 Q. Now going forward to November of 2017,
8 what was going on in your life then?

9 A. In 2017, I was just kind of tired of being
10 where I was at.

11 Q. All right. When you say where you were
12 at, do you mean the physical location, or what you
13 were doing, or both?

14 A. Both, in my life.

15 Q. In your life?

16 A. I was tired at that point in my life.

17 Q. All right. Now, up until then, had you
18 been keeping in contact with either Special Agent
19 Acee or the FBI people that you were working with
20 out of state?

21 A. Yes, ma'am.

22 Q. And at some point -- I don't want to know
23 facts about this incident, but were you arrested in
24 the middle of November last year?

25 A. Yes, ma'am.

1 Q. Now, as a result of that arrest, did that
2 cause a change in your relationship with the FBI?

3 A. Yes, ma'am.

4 Q. How so?

5 A. I made police contact, and I wasn't
6 supposed to make police contact.

7 Q. And so what was going on in your mind?

8 A. I thought I was in trouble, so I
9 absconded.

10 Q. So you absconded?

11 A. Yes, ma'am.

12 Q. All right. So after you had contact with
13 police, did you go to the FBI and say, "Hey, I
14 messed up. You know, this is what happened"; or
15 were you scared and took off?

16 A. No, I just -- there was no excuse. I just
17 absconded. I didn't make any recognition to them
18 that I had broke the law.

19 Q. And --

20 A. Allegedly broke the law.

21 Q. I'm sorry?

22 A. Or allegedly broke the law.

23 Q. And are you aware there is still the
24 potential for you to be charged for the incident
25 that happened there in November of 2017?

1 A. Yes, ma'am.

2 Q. And again, I'm not asking you to admit any
3 facts, but were you arrested that night and there
4 was an allegation that you were in possession of a
5 firearm?

6 A. Yes, ma'am.

7 Q. And have there been made any promises to
8 you by anybody, whether over there, by state or fed,
9 or here in New Mexico, as to what will happen with
10 those charges?

11 A. No, ma'am.

12 Q. And are you still on parole today?

13 A. I still am on parole today. My parole has
14 been revoked, yes, ma'am.

15 Q. And is that why you are in custody for --

16 A. That's why I'm in this yellow suit, yes,
17 ma'am.

18 Q. And after that arrest, you say you
19 absconded. Were you eventually arrested on a parole
20 violation on approximately December 15 of 2017?

21 A. Yes, ma'am.

22 Q. And when you were arrested, were you
23 completely truthful with the officer that arrested
24 you, or did you give him a false name initially?

25 A. I wasn't trying be captured, so I gave the

1 officer a false name so I wouldn't be apprehended.

2 Q. Then you were brought back; is that
3 correct?

4 A. Yes, ma'am.

5 Q. So as it stands now, your parole has been
6 revoked?

7 A. Yes, ma'am.

8 Q. And how many -- how long, years, were you
9 supposed to be on parole?

10 A. I was supposed to be on parole for two
11 years.

12 Q. And I believe you mentioned yesterday
13 possibly that you also are on probation and your
14 probation is going to be violated?

15 A. Yes, ma'am.

16 Q. And that's for the incident involving the
17 shank?

18 A. Yes, ma'am.

19 Q. All right. Now, in reference to the
20 recordings, early on in this case you mentioned --
21 and we heard recordings of Anthony Baca. Did you
22 also record Mario Rodriguez?

23 A. Yes, ma'am.

24 Q. Did you actually get any type of
25 confession from Mario Rodriguez before realizing

1 that the battery in the device died?

2 A. Yes, I didn't realize that. I was brought
3 to that knowledge by the FBI that the battery died.

4 Q. Okay. And did you also -- I think we
5 touched on it, but just to be clear, did you also
6 get recordings from Roy Martinez and Robert
7 Martinez?

8 A. Yes, ma'am.

9 Q. And did those occur prior to Anthony Baca
10 being brought back?

11 A. Yes, ma'am.

12 Q. Now, you mentioned yesterday about knowing
13 Daniel Sanchez, and you talked about an incident
14 regarding a person by the name of Rhino. Do you
15 recall that?

16 A. Yes, ma'am.

17 Q. Okay. Was that incident SNM-related?

18 A. It was SNM-related, yes, ma'am.

19 Q. Okay. Tell us how so.

20 A. It was an orchestrated hit against Daniel
21 Munoz, Rhino. He's a Sureno. He had jumped with --

22 MR. JACKS: Your Honor, I'm going to
23 object. This appears to be based on hearsay, unless
24 the witness was percipient to the situation.

25 THE COURT: Why don't you lay some

1 foundation, see how he acquired his knowledge?

2 A. I was in prison in 2005, and some
3 assailants had jumped at a prison that I was at, and
4 I was present during the time that the SNM
5 members --

6 MS. JACKS: Objection, Your Honor. There
7 is no question pending.

8 THE COURT: Hold on a minute.

9 BY MS. ARMIJO:

10 Q. Let me start back --

11 MS. JACKS: I'd ask that the response be
12 stricken, given that it was a response to no
13 question.

14 THE COURT: Well, I won't strike the
15 response for that basis. If there is some other
16 reason, I'll consider it.

17 Ms. Armijo.

18 BY MS. ARMIJO:

19 Q. Does the incident regarding Rhino go back
20 to an incident that you are personally aware of back
21 when you were in Hobbs?

22 MS. JACKS: Objection, calls for a
23 conclusion.

24 THE COURT: Well, if he has personal
25 knowledge of what he's about to say, then I'll allow

1 it. Why don't you ask him if he will?

2 BY MS. ARMIJO:

3 Q. Do you have personal knowledge about an
4 incident that occurred that eventually led up to a
5 different incident which Daniel Sanchez told you
6 about, and that you -- and do you have information
7 about that incident regarding Rhino, apart from what
8 Daniel Sanchez told you about?

9 MS. JACKS: Objection, calls for
10 conclusion, compound, and based on hearsay.

11 THE COURT: Well, I do think the question
12 is going to have to be broken down. You're going to
13 have to take the incident before and see if he has
14 any knowledge about it before he can testify about
15 it.

16 BY MS. ARMIJO:

17 Q. Let me go back. You started to say that
18 there was an incident that happened when you were in
19 Hobbs; is that correct?

20 MS. JACKS: Objection, relevance.

21 THE COURT: Overruled.

22 A. Yes.

23 BY MS. ARMIJO:

24 Q. Is that incident that you were going to
25 talk about related to the incidents regarding Daniel

1 Sanchez and Rhino?

2 A. Yes, ma'am.

3 MS. JACKS: Objection. Calls for a
4 conclusion based on hearsay, and compound.

5 THE COURT: Overruled.

6 BY MS. ARMIJO:

7 Q. And tell us, do you have personal
8 knowledge, since you were in Hobbs, about the
9 incident that happened at Hobbs?

10 A. Yes, ma'am.

11 Q. Were you an SNM Gang member back in 2005
12 when you were at Hobbs?

13 A. Yes, ma'am.

14 Q. And tell us about the incident that
15 occurred in Hobbs in 2005 that you have personal
16 knowledge of since you were there.

17 MS. JACKS: Objection, irrelevant, unless
18 it can be related to something not related by
19 hearsay or conclusionary statements.

20 THE COURT: If he observed the -- if he
21 observed it, I'll allow him to testify.

22 BY MS. ARMIJO:

23 Q. Did you -- were you -- did you observe the
24 incident personally?

25 MR. JACKS: Objection, vague.

1 A. In Hobbs, yes, ma'am.

2 Q. We're talking about --

3 THE COURT: Overruled as to the objection.

4 Go ahead.

5 Q. I'll be very specific. Is there an
6 incident that happened in Hobbs, while you were
7 there, that you are personally aware of from your
8 personal observations?

9 A. Yes, ma'am.

10 Q. Before you tell us about it, was this
11 incident related to the incident regarding Rhino and
12 Daniel Sanchez?

13 MS. JACKS: Objection, calls for a
14 conclusion.

15 A. Yes, ma'am.

16 MS. JACKS: Based on hearsay.

17 THE COURT: Overruled.

18 BY MS. ARMIJO:

19 Q. You can answer.

20 A. Yes, ma'am.

21 Q. All right. So let's go first now to the
22 incident that you have personal knowledge of in
23 2005. Tell us what happened there.

24 A. The incident occurred in 2005 at the
25 facility in Hobbs, New Mexico. I and other SNM Gang

1 members were housed at this facility. While being
2 housed at this facility, two SNM Gang members were
3 brutally beaten by other gang members, rival gang
4 members, and they eventually went to PNM South with
5 Rhino.

6 Q. Okay. Is Rhino -- was he an SNM Gang
7 member?

8 A. He was a rival.

9 Q. Okay. So while you were there, two SNM
10 Gang members were assaulted?

11 A. After the assault took place, all SNM Gang
12 members had the green light to assault every rival
13 that was in New Mexico by our commander in chief,
14 which was Arturo Garcia.

15 MR. JACKS: Objection, nonresponsive.

16 THE COURT: Overruled.

17 BY MS. ARMIJO:

18 Q. Okay. So just so that we're clear, this
19 incident happens in Hobbs, and then -- where SNM
20 members are attacked by rivals; is that correct?

21 A. Yes, ma'am.

22 Q. And then SNM members are moved to -- at
23 least you, as well, to PNM North; is that correct?

24 A. They're moved to PNM South.

25 Q. I'm sorry, South. All right. Now as a

1 result of that, were there orders given by one of
2 the SNM leaders at the time as far as what should be
3 done with rival gang members?

4 A. Yes, ma'am.

5 Q. Okay. And did you receive those orders?

6 A. Yes, ma'am.

7 Q. As part of being an SNM Gang member?

8 A. Yes, ma'am.

9 Q. What orders were received as a result of
10 the Hobbs incident?

11 A. To kill all rivals.

12 Q. Now, after that order to kill all rivals,
13 are you aware of the incident regarding Daniel
14 Sanchez that you spoke about yesterday and Rhino?

15 A. Yes, ma'am.

16 Q. Okay. Do you have knowledge, based
17 upon -- and this is just yes or no. Do you have
18 knowledge if the Rhino incident is based upon the
19 order to hit rival gang members?

20 MR. JACKS: Objection. Calls for hearsay.

21 THE COURT: Overruled.

22 A. Yes, ma'am, it was a hit.

23 BY MS. ARMIJO:

24 Q. Okay. So you do have information on it.

25 I guess that was my question first.

1 A. Yes, ma'am.

2 Q. And how do you have your information?

3 A. I was at the facility while he was hit.

4 Q. Okay. And did you subsequently have a
5 conversation with Daniel Sanchez about that
6 incident?

7 A. Yes, ma'am.

8 Q. And was the hit on Rhino, the attack on
9 Rhino by Daniel Sanchez, related to the order that
10 came down by Arturo Garcia?

11 A. Yes, ma'am.

12 MS. ARMIJO: If I may have a moment, Your
13 Honor?

14 THE COURT: You may.

15 MS. ARMIJO: I'll pass the witness.

16 THE COURT: Thank you, Ms. Armijo.

17 Ms. Jacks? Ms. Duncan?

18 MS. DUNCAN: Your Honor, I'm -- first, I
19 wonder if we could take a quick break before I
20 begin.

21 THE COURT: All right.

22 Let me introduce Mr. Del Valle. He's
23 representing Mr. Duran. And so during
24 cross-examination, he's going to be seated here
25 where Mr. Candelaria was yesterday with Mr. Montoya.

1 All right. We'll be in recess for about
2 15 minutes.

3 (The jury left the courtroom.)

4 THE COURT: All right. We'll be in recess
5 for about 15 minutes.

6 (The Court stood in recess.)

7 THE COURT: All right. We'll go back on
8 the record. Anything we need to discuss before we
9 bring the jury in, Ms. Armijo?

10 MS. ARMIJO: No, Your Honor.

11 THE COURT: How about you, Ms. Duncan?

12 MS. DUNCAN: Your Honor, there is just one
13 transcript that I'll be moving to admit. It was
14 Government's Exhibit 324.

15 THE COURT: Any objection to that, Ms.
16 Armijo?

17 MS. ARMIJO: No, Your Honor. And I do
18 think it's something that we should take care of
19 before the jury comes in. I purposely, with
20 Mr. Duran, only got into his prior felonies pre-SNM,
21 as I would for 609. I don't think the facts are
22 relevant, and are beyond the scope of an entry for
23 609 purposes. So I ask in limine that defense
24 counsel not get into that.

25 THE COURT: All right. Remind me what the

1 crime is.

2 MS. ARMIJO: They were the aggravated --
3 there was a burglary and then aggravated assault on
4 a peace officer regarding -- it involves a vehicle
5 incident. But it's what sent him to prison when he
6 later became an SNM Gang member.

7 THE COURT: All right. But you don't have
8 any problem with 324 coming in?

9 MS. ARMIJO: No.

10 THE COURT: Any objection from anyone
11 else?

12 All right. Government's Exhibit 324 will
13 be admitted into evidence.

14 (Government Exhibit 324 admitted.)

15 THE COURT: And do you have any problem
16 with the limitation she's suggesting?

17 MS. DUNCAN: I do, Your Honor. The
18 underlying facts of Mr. Duran's many convictions
19 show a disregard for law enforcement he's claiming
20 to cooperate with now. They also show his character
21 for dishonesty and lying to law enforcement about
22 his identity, and his efforts to escape the
23 consequences of his criminal conduct.

24 So I do intend to get into the details of
25 the offenses.

1 THE COURT: Well, how does this differ
2 from the defendants getting into the details of
3 other informants?

4 MS. ARMIJO: Well, they did get into it
5 with Robert Martinez. He was my witness. And I
6 purposely stayed away from -- and I never got into
7 it with others. There may have been other witnesses
8 they got into it, but I know that we were very
9 specific with certain witnesses that 609 rules
10 apply, and they did not get into it. So it was not
11 consistent.

12 But I am pretty certain that with my
13 cooperators -- and I know specifically with Mr.
14 Martinez, his prior -- the facts of his prior felony
15 convictions did not come in, and they were quite
16 aggravating circumstances.

17 So certainly, Ms. Duncan has plenty to
18 work from. But again, given his age and that he was
19 not SNM, and that there is full admission as far as
20 his purposes for 609. And it's even beyond 609.
21 But we went ahead and covered it for 609.

22 THE COURT: Well, let's take them a
23 question at a time. If it becomes, you know, a lot
24 of collateral stuff, I may clip your wings and move
25 on because it's getting redundant. But I do see

1 that some of the questions Ms. Duncan outlined may
2 have some non-609 purposes. In other words, not
3 going just to his credibility, but to, you know,
4 bias and prejudice here, now that he's cooperating.
5 Let me take them a question at a time, but I'll be
6 inclined to give her a little bit of leeway.

7 All rise.

8 (The jury entered the courtroom.)

9 THE COURT: All right. Mr. Duran, I'll
10 remind you that you're still under oath.

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Ms. Duncan, if you
13 wish to commence your cross-examination of
14 Mr. Duran, you may do so at this time.

15 MS. DUNCAN: Thank you, Your Honor.

16 THE COURT: Ms. Duncan.

17 CROSS-EXAMINATION

18 BY MS. DUNCAN:

19 Q. Mr. Duran, on direct examination you
20 testified about investigation into allegations that
21 you abused Ivy Maldonado; correct?

22 A. Yes, ma'am.

23 Q. And that investigation began when Ivy
24 complained that you had slapped her when she tried
25 to break up a fight between her and -- you and her

1 mother, Grace Duran; correct?

2 A. Allegedly, yes.

3 Q. And when witnesses observed a bruise on
4 Ivy's cheek, on the same cheek that she claimed that
5 you slapped her?

6 A. Can you repeat the question? I didn't
7 catch part of it.

8 Q. That the investigation began when
9 witnesses observed a bruise on Ivy's cheek on the
10 same side that you slapped her.

11 A. An investigation happened, yes, ma'am.

12 Q. And after witnesses observed bruises on
13 your wife, Grace Duran's, face; correct?

14 A. I'm not aware of that.

15 Q. And the investigation was closed because
16 the officer investigating it determined he didn't
17 have jurisdiction; correct?

18 A. I'm not aware of that, either.

19 Q. Are you aware that that officer -- well,
20 after that incident, your wife, Grace Duran,
21 returned to New Mexico with Ivy; correct?

22 A. Yes, ma'am.

23 Q. And are you aware that that officer
24 contacted law enforcement in New Mexico to conduct
25 welfare checks on Grace and Ivy?

1 A. I'm not aware of that.

2 Q. You're not aware that he made actually
3 three calls to law enforcement to check on their
4 well-being?

5 A. I only spoke to him one time; and no, I'm
6 not.

7 Q. You indicated that although Ivy is not
8 your biological daughter, you've raised her her
9 whole life; correct?

10 A. Yes.

11 Q. And you've raised her from inside of
12 prison?

13 A. Yes, ma'am.

14 Q. So you've mostly spoken to her by phone;
15 correct?

16 A. Yes, ma'am.

17 Q. And you've provided Grace Duran with
18 instruction on how to raise her also by phone;
19 correct?

20 A. Yes, ma'am.

21 Q. And during those phone calls, you have
22 instructed Grace Duran to beat Ivy's ass; correct?

23 A. No.

24 MS. DUNCAN: Your Honor, we would like to
25 play Defendants' Exhibit Z46.

1 THE COURT: All right.

2 BY MS. DUNCAN:

3 Q. You are aware, Mr. Duran, that when you're
4 in prison, the phone calls you make are recorded;
5 correct?

6 A. Yes, ma'am.

7 Q. And you made calls to Grace Duran on the
8 prison phone calls?

9 A. Yes, ma'am.

10 (Tape played.)

11 Q. The two voices that we just heard -- who
12 was that?

13 A. Myself and my wife.

14 Q. If we can start at 710, please.

15 (Tape played.)

16 MS. DUNCAN: Your Honor, we had some
17 trouble with the timing on this, so we may have to
18 play it for a while.

19 (Tape played.)

20 BY MS. DUNCAN:

21 Q. At that point, Mr. Duran, you just
22 instructed your wife to whoop Ivy's ass; correct?

23 A. Yeah, within the guidelines of the law.

24 Q. Let's play Defendants' Z25.

25 (Tape played.)

1 Q. So again, that's you and your wife, Grace
2 Duran?

3 A. Yes, ma'am.

4 Q. Would you go to marker 11:30?

5 MS. ARMIJO: And, Your Honor, has there
6 been a foundation as to when these calls occurred?

7 Q. So Mr. Duran, at the beginning of these
8 recordings, we heard a recording that said this call
9 was being made from the Penitentiary of New Mexico;
10 correct?

11 A. Yes, ma'am.

12 Q. And when were you at the Penitentiary of
13 New Mexico?

14 A. Several times. Which time are you
15 indicating?

16 Q. Why don't you tell us all the times that
17 you've been at the Penitentiary of New Mexico.

18 A. I have been at the Penitentiary of New
19 Mexico in 2007 to 2011. In '11, I went to the
20 Penitentiary of New Mexico, South unit. In 2012, I
21 left that facility.

22 Q. Were you at PNM in August -- June through
23 August of 2016?

24 A. Yes, ma'am.

25 MS. DUNCAN: If we could have a moment,

1 Your Honor?

2 THE COURT: You may.

3 BY MS. DUNCAN:

4 Q. While we're cuing up that call, Mr. Duran,
5 I'd like to ask you, in addition to instructing your
6 wife to whoop Ivy's ass, you also indicated that
7 when you got out, you were going to whoop Ivy's ass,
8 as well; correct?

9 A. Yes.

10 Q. And at one point that you were going to
11 fuck her ass up; correct?

12 A. I don't recall that.

13 Q. We can play that one, too. We'll come
14 back to that. We've having issues on that one.
15 We'll come back on that.

16 You also testified about an arrest last
17 year; correct? An arrest for being a felon in
18 possession of a firearm?

19 A. Yes, ma'am.

20 Q. And that's not the only encounter with law
21 enforcement you had last year, is it?

22 A. No, ma'am.

23 Q. In fact, you had, in addition -- you had
24 the contact involving Ivy, and that was in May of
25 2017; correct?

1 A. I believe so, yes, ma'am.

2 Q. And then your next encounter was in August
3 of 2017; correct?

4 A. Yes, ma'am.

5 Q. And that was when you were contacted in
6 connection with a prostitution ring; correct?

7 A. Yes, ma'am.

8 Q. You had dropped off a woman at a hotel
9 known for prostitution?

10 A. Allegedly she was known for prostitution.
11 Not by me.

12 Q. And when law enforcement approached you at
13 the hotel, you were cupping a needle full of liquid;
14 correct?

15 A. Yes, ma'am.

16 Q. And you sprayed that liquid on the floor
17 of the vehicle?

18 A. No.

19 Q. Are you aware that law enforcement alleged
20 that you sprayed the liquid in the needle on the
21 floor when they approached you?

22 A. Yes, ma'am.

23 Q. Your next encounter with law enforcement
24 last year was on November 11, 2017; correct?

25 A. Yes, ma'am.

1 Q. And this was the incident that you
2 testified to on direct with Ms. Armijo; correct?

3 A. Yes, ma'am.

4 Q. When you were found in a vehicle with
5 several firearms?

6 A. Yes, ma'am.

7 Q. And one of those firearms was found under
8 the seat that you were sitting in; correct?

9 MR. DEL VALLE: Your Honor, I'm going to
10 object to any further questioning along these lines.
11 That is a pending case, and my client will take the
12 Fifth Amendment.

13 THE COURT: Are you going to follow his
14 advice, Mr. Duran?

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: All right. So I'll not
17 require the defendant -- or the witness to answer
18 that question.

19 BY MS. DUNCAN:

20 Q. And you were not only being investigated
21 for being a felon in possession of a firearm based
22 on that incident, but also for being in possession
23 of heroin; correct?

24 MR. DEL VALLE: Again, Your Honor, I'm
25 going to make the same objection. It relates to the

1 same incident.

2 THE COURT: Same? Are you going to follow
3 that instruction, Mr. Duran?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: All right.

6 MS. DUNCAN: Your Honor, my question is:
7 Is he being investigated for that.

8 THE COURT: I think these are getting a
9 little close, so I'm going to observe the invocation
10 of the Fifth and not require him to answer.

11 MS. JACKS: Your Honor, I think the
12 witness' Fifth Amendment privilege is for the
13 witness to assert, not for his lawyer to object.

14 THE COURT: That's the reason I'm asking
15 the question whether he's going to follow his
16 counsel's advice. And so if he says, yes, I'll
17 observe it.

18 BY MS. DUNCAN:

19 Q. During the course of that arrest, you told
20 the arresting officer that you were an FBI
21 informant; correct?

22 A. Yes, ma'am.

23 Q. You were hoping, by telling him you were
24 an FBI informant, that you could escape those
25 charges?

1 A. No, ma'am.

2 Q. To escape the consequences for your
3 criminal conduct?

4 A. No, ma'am.

5 Q. But you were charged with being a felon in
6 possession of a firearm; correct?

7 A. Yes, ma'am.

8 Q. And you were charged with being in
9 possession of heroin; correct?

10 A. Yes, ma'am.

11 Q. Your next encounter with law enforcement
12 this past year was November 27, 2017; correct?

13 A. Yes, ma'am.

14 Q. And in that, that was while the felon in
15 possession charge was pending; correct? You were
16 charged with being a felon in possession on November
17 11, 2017; right?

18 A. Yes, ma'am.

19 Q. And so you were released on bail in that
20 case; correct?

21 A. Yes, ma'am.

22 Q. And while that case was pending, you had
23 another encounter with law enforcement; correct?

24 A. Yes, ma'am.

25 Q. On November 27, 2017?

1 A. Yes, ma'am.

2 Q. And in that incident, you were a passenger
3 in a car that fled a traffic stop; correct?

4 A. Yes, ma'am.

5 Q. And the car was stolen?

6 A. Yes, ma'am.

7 Q. Eventually that car crashed; correct?

8 A. Yes, ma'am.

9 Q. And you ran away from the scene?

10 MR. DEL VALLE: Objection.

11 A. I was released.

12 THE COURT: Hold on. Listen to your
13 attorney here.

14 MR. DEL VALLE: Objection, Your Honor. I
15 don't know that running away from the scene is a
16 crime. A case may still be pending. And I'm going
17 to advise my client to take the Fifth Amendment and
18 not to testify as to anything involving that
19 incident.

20 THE COURT: Are you going to follow that
21 advice, Mr. Duran?

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: So I will not require the
24 witness to answer that question.

25 MS. DUNCAN: And Your Honor, just so I can

1 make a record, on direct examination Mr. Duran
2 answered Ms. Armijo's questions about giving a false
3 name to law enforcement. So he did, in fact, answer
4 questions about the details of this. So I'd like to
5 inquire about that further.

6 A. That was a different time.

7 THE COURT: Hold on. I'll not require the
8 defendant -- the witness to answer the question.

9 MR. DEL VALLE: If I may, Your Honor,
10 respond to that?

11 THE COURT: You may.

12 MR. DEL VALLE: She's asking: And you ran
13 away. She's putting facts not in evidence. She's
14 putting allegations --

15 THE COURT: Well, let's do this: You've
16 instructed the witness.

17 MR. DEL VALLE: So I've instructed my
18 witness, my client --

19 THE COURT: All right. Next question, Ms.
20 Armijo.

21 MS. DUNCAN: Ms. Duncan.

22 THE COURT: Ms. Duncan.

23 MS. DUNCAN: Thank you, Your Honor.

24 BY MS. DUNCAN:

25 Q. So you gave a fake name to the law

1 enforcement officer when he approached you on that
2 date; correct?

3 A. No, that was a totally different day.

4 Q. You told him that your name was Brett
5 Coleman?

6 A. That's on December 15, not November 27.

7 Q. Thank you for clarifying that.

8 On December 15 is when you were arrested
9 on the warrant out of New Mexico; correct?

10 A. Yes, ma'am.

11 Q. Okay. So it's on that day that you gave
12 the false name of Brett Coleman; correct?

13 A. Yes, ma'am.

14 Q. And during the arrest, you claimed to be
15 on the phone with your lawyer?

16 A. Yes, ma'am.

17 Q. And that you were going to file a claim
18 for police harassment?

19 A. Yes, ma'am.

20 Q. But you weren't. That was a lie; correct?

21 A. No. I was on the phone with my lawyer.

22 Q. Claiming police harassment?

23 A. Yes, ma'am.

24 Q. And you continued to deny your true
25 identity to the officer; correct?

1 A. Yes, ma'am.

2 Q. And the officer eventually had to run
3 fingerprints to identify you?

4 A. Yes, ma'am.

5 Q. The State of New Mexico then sought to
6 extradite you here because of your probation
7 violation; correct?

8 A. Because of my parole violation, yes,
9 ma'am, and probation.

10 Q. And you sought to fight extradition to New
11 Mexico; correct?

12 A. I fought it? No.

13 Q. Would it surprise you to learn that Agent
14 Acee reported that you were fighting extradition?

15 A. No, I didn't fight extradition.

16 Q. You had signed waiver papers, in fact, as
17 part of your probation to waive extradition;
18 correct?

19 A. Yes, ma'am.

20 Q. So even if you had fought extradition, it
21 would have been futile?

22 A. Yes, ma'am.

23 Q. When you arrived in New Mexico, Agent Acee
24 obtained a DNA sample from you; correct?

25 A. Yes, ma'am.

1 Q. And that's in relation to a potential
2 federal felon in possession of a firearm charge;
3 correct?

4 A. Yes, ma'am.

5 Q. But you haven't been charged yet?

6 A. No, ma'am.

7 Q. Now, claiming that your name was Brett
8 Coleman is not the first time you've used a false
9 identity; correct?

10 A. No, ma'am.

11 Q. You also, in 1998, claimed that your name
12 was Johnny Joe Lucero; correct?

13 MS. ARMIJO: Objection, Your Honor --
14 actually, as to this incident, no.

15 A. Yes, ma'am.

16 Q. And that was during an arrest for an armed
17 robbery in El Paso, Texas; correct?

18 A. Yes, ma'am.

19 Q. And in 1998, when you were arrested for
20 aggravated assault on a police officer, you falsely
21 claimed that your name was Adrian Garcia; correct?

22 A. Yes, ma'am.

23 Q. More recently, in November of 2016, you
24 held out as Zo Major -- you used Zo Major as your
25 name; correct?

1 A. Yes, ma'am.

2 Q. And that's not your name?

3 A. That's my artist name, to my recollection,
4 yes, ma'am.

5 Q. In May 2017, you used the name Zo Holiday;
6 correct?

7 A. Yes, ma'am.

8 Q. And, in June 2017, the name Zo Meechie?

9 A. Yes, ma'am, social media, Facebook.

10 Q. I'd like to show you what has been marked
11 as Defendants' Exhibits AE1 through AE5.

12 MS. DUNCAN: May I approach?

13 THE COURT: You may.

14 BY MS. DUNCAN:

15 Q. If you could look at these pictures and
16 tell me if you recognize them.

17 A. Pictures of myself on my Facebook page --
18 all my Facebook pages.

19 Q. These are pictures that you caused to have
20 taken of yourself?

21 A. Yes, ma'am.

22 MS. DUNCAN: Your Honor, at this time, I'd
23 move the admission of Defendants' Exhibit AE1
24 through AE5.

25 THE COURT: Any objection?

1 MS. ARMIJO: No, Your Honor.

2 THE COURT: Anybody else have any
3 objection?

4 MR. JACKS: No.

5 THE COURT: All right. Defendants'
6 Exhibits AE1 through AE5 will be admitted into
7 evidence.

8 (Defendants' Exhibits AE1 through AE5
9 admitted.)

10 MS. DUNCAN: Your Honor, if we can publish
11 these to the jury. I'll start with AE1.

12 BY MS. DUNCAN:

13 Q. And this is a picture that you caused to
14 have taken of yourself, Mr. Duran?

15 A. Yes, ma'am.

16 Q. And was this a picture of you as Zo
17 Meechie, Zo Major or Zo Holiday?

18 A. Zo all of them.

19 Q. And is that money in your pockets?

20 A. Yes, ma'am.

21 Q. Is that money you received from the FBI?

22 A. No, ma'am.

23 Q. If we could see AE2, please. And this
24 picture AE2, is this Zo Major, Zo Holiday, or Zo
25 Meechie?

1 A. Zo all of them. Every one of them.

2 Q. And the jewelry that we see in this
3 picture -- is that jewelry that was purchased with
4 money provided to you by the FBI?

5 A. No, ma'am.

6 Q. And if we could see AE3, please. This
7 photograph, is this Zo Meechie, Zo Major, or Zo
8 Holiday?

9 A. All of them.

10 Q. Is that money that was provided to you by
11 the FBI?

12 A. No, ma'am.

13 Q. How much money are you throwing in the air
14 in that picture, Mr. Duran?

15 A. Probably about \$1,000.

16 Q. If I could now show you AE4. And is this
17 you as Zo Major, Zo Meechie, or Zo Holiday?

18 A. All three of them.

19 Q. And that fur coat. Did you buy that fur
20 coat with money provided to you by the US
21 Government?

22 A. Yes, ma'am.

23 Q. And the watch you're wearing. Did you buy
24 that with money provided to you by the US
25 Government?

1 A. No, ma'am.

2 Q. And I think this one shows it better. If
3 we could now see Defendants' Exhibit AE5. Is this
4 you as Zo Major, Zo Meechie, or Zo Holiday?

5 A. All of them.

6 Q. And I see some gold in your teeth. What
7 is that?

8 A. It's a gold grille with diamonds.

9 Q. How much did that cost?

10 A. About \$1,500.

11 Q. And was that bought with money given to
12 you by the federal government?

13 A. Yes, ma'am.

14 Q. And the money you're holding in your
15 hands -- how much money is that?

16 A. I'm not sure.

17 Q. Is that money that was given to you by the
18 federal government?

19 A. No, ma'am.

20 Q. Other than the names we've discussed, have
21 you ever identified yourself under a name that's not
22 your own?

23 A. No, ma'am.

24 MS. DUNCAN: Have we been able to fix the
25 phone calls? We'll come back to that. I'll leave

1 that for later.

2 Q. I would like to ask you about -- well, I'd
3 like to -- when you were being questioned by Ms.
4 Armijo on direct, she played some recordings that
5 you made; correct?

6 A. Several, yes, ma'am.

7 Q. Now when you made those recordings, you
8 controlled the recorder; correct?

9 A. Yes, ma'am.

10 Q. You controlled when it got turned on and
11 when it got turned off?

12 A. Yes, ma'am.

13 Q. And at the time, you knew that you were
14 being recorded; you were recording yourself;
15 correct?

16 A. Yes.

17 Q. And Mr. Baca did not know you were
18 recording him; is that right?

19 A. No, ma'am.

20 Q. And the purpose was to get evidence for
21 the Government; correct?

22 A. Yes, ma'am.

23 MS. DUNCAN: So at this point, Your
24 Honor --

25 Q. Well, we heard some discussion, and I

1 think added some commentary about Mr. Baca agreeing
2 to the hit on Gregg Marcantel; correct?

3 A. Yes, ma'am.

4 Q. When you first raised the issue of hitting
5 Gregg Marcantel to Mr. Baca, he said, "No"; correct?

6 A. At one point, yes, ma'am.

7 Q. And that is in Government's Exhibit 324,
8 if we could play that.

9 MS. DUNCAN: And Your Honor, we're just
10 going to admit the portion that we're going to play,
11 not the entire transcript or the entire recording; I
12 apologize.

13 MS. ARMIJO: Your Honor, since it's not
14 the Government's exhibit, I would request that the
15 whole transcript be admitted. If they just want to
16 play a portion, then maybe they can make it a
17 defense exhibit. But since it's a Government's
18 exhibit, we request the whole exhibit be admitted.

19 MS. DUNCAN: We can make it into a defense
20 exhibit, Your Honor. And Your Honor, it would be
21 Defendants' FR. And that would be the recordings.

22 THE COURT: And you're moving its
23 admission?

24 MS. DUNCAN: Yes, Your Honor.

25 THE COURT: Any objection, Ms. Armijo, to

1 FR?

2 MS. ARMIJO: No, Your Honor.

3 THE COURT: Not hearing any objection,
4 Defendants' FR will be admitted into evidence.

5 (Defendants' Exhibit FR admitted.)

6 (Tape played.)

7 BY MS. DUNCAN:

8 Q. That's the conversation that we were just
9 discussing, Mr. Duran?

10 A. That was one of the first conversations we
11 had, yes, ma'am.

12 Q. Where you raised the name of Marcantel,
13 and Mr. Baca said "No."

14 A. Yes, ma'am.

15 Q. And in fact, you first started cooperating
16 February 19 of 2015; correct?

17 A. Yes, ma'am.

18 Q. And during that conversation, you told law
19 enforcement that the plan -- Mr. Baca's plan was to
20 hit Mr. Santistevan and not Mr. Marcantel; correct?

21 A. Both, either/or.

22 MS. DUNCAN: Your Honor, if we could, I'm
23 now going to play a clip from Defendants' Exhibit
24 ED, ED1.

25 THE COURT: And has this been admitted?

1 MS. DUNCAN: Your Honor, no, it hasn't
2 been admitted. We're just playing it for
3 impeachment purposes.

4 (Tape played.)

5 BY MS. DUNCAN:

6 Q. So on that clip, Mr. Duran, law
7 enforcement asked you if the hit was on both
8 Mr. Santistevan and Marcantel. And you said, "No,
9 just on Santistevan"; correct?

10 A. Yes, ma'am.

11 Q. In fact, it wasn't until August of 2015
12 that you first told law enforcement that Mr. Baca
13 was eager to hit Mr. Marcantel; correct?

14 A. Yes, ma'am.

15 Q. Now, when you first agreed to cooperate
16 with law enforcement, back on February 19 of 2015,
17 you testified on direct that you had decided to make
18 the right decisions and change your life; correct?

19 A. Yes, ma'am.

20 Q. And you told law enforcement that you
21 wanted to give back to the community; correct?

22 A. Yes, ma'am.

23 Q. And that you were unlike other people who
24 tried to cooperate because you were not in trouble?

25 A. Yes, ma'am.

1 Q. But in fact, you were in trouble at that
2 time?

3 A. Not to my knowledge.

4 Q. Well, you knew that a week before, a shank
5 had been found in your cell; correct?

6 A. If you consider it a shank, yes, ma'am.

7 Q. Well, law enforcement considered it a
8 shank.

9 A. Law enforcement considers a lot of things
10 shanks.

11 Q. It's law enforcement who decides whether
12 or not you're going to be in trouble for possession
13 of a weapon; correct?

14 A. I didn't know I was in trouble.

15 Q. Well, you knew they had found something
16 that they considered to be a shank; correct?

17 A. I wasn't told I was in trouble for it. It
18 was a piece of an eyeglass.

19 Q. Mr. Duran, at that point you had been
20 convicted of possession of a shank; correct?

21 A. A real shank, yes.

22 Q. And you had been sentenced to a year in
23 prison for that shank?

24 A. And five years' probation, yes.

25 Q. And you had lost some good time and faced

1 other sanctions from the Department of Corrections;
2 correct?

3 A. Yes, ma'am.

4 Q. And when you met with law enforcement in
5 February of 2015, you discussed the shank that was
6 found in your cell; correct?

7 A. Yes, ma'am.

8 Q. And STIU officers were with you at that
9 time; correct?

10 A. Yes, ma'am.

11 Q. And those officers described it as a
12 shank; correct?

13 A. Which shank are you talking about?

14 Q. The shank that was found in your cell in
15 February of 2015.

16 A. No, they didn't describe it as a shank.

17 Q. If you could go to -- let me show you a
18 transcript, Mr. Duran, of your interview with law
19 enforcement.

20 Let me ask a different way. Eventually,
21 you were sanctioned for the weapon that was found in
22 your cell; correct?

23 A. No, I wasn't. The report was dropped. I
24 was sanctioned for assault, verbal assault.

25 Q. That was a different incident; correct?

1 That was when you threatened to kill the law
2 enforcement officer; correct?

3 A. Yes, ma'am.

4 Q. You were also sanctioned for possession of
5 a shank?

6 A. No, the report got dropped.

7 Q. You were placed on Interim Level 6 pending
8 review after finding -- law enforcement found the
9 shank; correct?

10 A. Yes, ma'am. That's the initial placement
11 before you receive your report.

12 Q. Correct. And you were put into the
13 prehearing detention because a homemade weapon was
14 discovered in your cell; correct?

15 A. Until the report was dismissed, yes,
16 ma'am. That's prehearing detention.

17 Q. Correct. And we'll have an officer come
18 in and talk about that shank, Mr. Duran. So if
19 you'd just answer my questions.

20 Let's get to the second report. The day
21 before you met with law enforcement, you threatened
22 to kill a law enforcement officer; correct?

23 A. Yes, ma'am.

24 Q. And in making that threat to the officer,
25 you yelled out his home address; correct?

1 A. Allegedly.

2 Q. What you believed to be his home address?

3 A. I didn't yell out nothing. But that's
4 what he said.

5 Q. And you yelled that out, and you also
6 yelled out what kind of car he drove; correct?

7 A. No.

8 Q. According to him?

9 A. According to him, yes, ma'am.

10 Q. And you were found guilty of that
11 allegation; correct?

12 A. Yes, ma'am.

13 Q. You were found guilty of making direct
14 threats to the life of that officer?

15 A. Yes.

16 Q. And you lost 30 days of disciplinary --
17 you were placed in disciplinary restrictive housing
18 for 30 days?

19 A. Yes.

20 Q. And you lost 60 days and all privileges;
21 correct?

22 A. Yes, ma'am.

23 Q. And at the time you were interviewing with
24 officers in February 19, 2015, you were on
25 prehearing detention; correct?

1 A. Yes.

2 Q. And had been in restriction for almost a
3 year; is that right?

4 A. Yes, ma'am.

5 Q. But that was continued in February 19 of
6 2015 -- or in February of 2015 based on, first, the
7 shank, and then the threat to Officer Urtiaga;
8 correct?

9 A. Yes, ma'am.

10 Q. And during your first conversation with
11 law enforcement, you discussed with them things that
12 they could do to help you; correct?

13 A. With law enforcement or correctional
14 officers?

15 Q. Well, correctional officers are law
16 enforcement officers, aren't they, Mr. Duran?

17 A. There's two different -- there's officers
18 on the streets and there are correctional officers.
19 I spoke to two different entities.

20 Q. When you were talking to the FBI and to
21 Corrections, you talked about what you'd like to get
22 from Corrections; correct?

23 A. Yes, ma'am.

24 Q. You discussed with them about getting good
25 time returned to you?

1 A. Yes, ma'am.

2 Q. And you lost good time because of the
3 possession of the shank for which you were
4 ultimately convicted; correct?

5 A. Yes, ma'am.

6 Q. And you lost good time because of your
7 possession of a cellphone, which you testified to on
8 direct examination; correct?

9 A. Yes, ma'am.

10 Q. And you were facing the potential
11 additional loss of good time based on the shank that
12 was found in your cell the week before?

13 A. Yes, ma'am.

14 Q. And, at that point, for the threats you
15 made against Officer Urtiaga?

16 A. Yes, ma'am.

17 Q. You also had a conversation with the
18 correctional officers about restoring the privileges
19 you had lost; correct?

20 A. I don't recall.

21 Q. Let's see if we can turn -- I will show
22 you what we have marked as ED6, just for
23 demonstrative purposes. Let me show you what has
24 been marked as Defendants' Exhibit ED6. It's a
25 transcript of the interview that you did on February

1 19, 2015. I'm showing you page 13. If you could
2 look at page 13 and 14 of that transcript.

3 A. Okay.

4 Q. So in that meeting -- let me get that back
5 from you. In that meeting you discussed with
6 correctional officers getting back some of the
7 property that was taken from you while on prehearing
8 detention; correct?

9 A. Not in trade for information, no.

10 Q. That wasn't my question. My question was:
11 During the interview in February of 2015, you
12 discussed with correctional officers getting back
13 some of your privileges?

14 A. Yes, ma'am.

15 Q. You discussed -- you told them that it was
16 okay for them to keep your TV, but you wanted the
17 rest of your property; correct?

18 A. Yes, ma'am.

19 Q. But you wanted your canteen back?

20 A. Yes, ma'am.

21 Q. And you wanted your phone privileges
22 restored?

23 A. Yes.

24 Q. And the STIU agreed that they would help
25 with all of that; correct?

1 A. Yes, ma'am.

2 Q. And at that point you were using other
3 inmates' PIN numbers to call your family?

4 A. Yes, ma'am.

5 Q. Because they had restricted your phone
6 calls?

7 A. Yes, ma'am.

8 Q. And you were ultimately given, in exchange
9 for your cooperation, unlimited phone calls with
10 your family; correct?

11 A. Yes, ma'am.

12 Q. You also discussed with the -- well, I'll
13 get to that in a minute.

14 During that interview, you testified on
15 direct examination that you've been a member of the
16 SNM since 2005; correct?

17 A. 2003.

18 Q. Oh, 2003. That's correct. Okay. So when
19 you talked to law enforcement in February of 2015,
20 however, you denied that you were an SNM member;
21 correct?

22 A. Not that I recall.

23 Q. If we could play ED3, please. And again
24 this is from your February 2015 interview.

25 (Tape played.)

1 Q. So in response to the question: "How long
2 have you been in SNM? A long time?" you answered,
3 Actually, I haven't really been a member"; correct?

4 A. Yes, ma'am.

5 Q. And then, if we could go to clip Number 4,
6 ED4.

7 (Tape played.)

8 Q. So again, Mr. Duran, you denied to law
9 enforcement that you were an SNM member; correct?

10 A. Yes, ma'am.

11 Q. And you testified at a hearing in this
12 case a month ago; correct?

13 A. Yes, ma'am.

14 Q. And at that hearing, you testified you
15 were an SNM member; correct?

16 A. Yes, ma'am.

17 Q. At that hearing, you testified that you
18 joined the SNM in 2005; correct?

19 A. I don't recall.

20 Q. Let me show you a transcript of that
21 proceeding. I'm showing you page 78 of the official
22 transcript from that hearing, the highlighted
23 portion. So at that hearing about a month ago, you
24 testified that you became a member of the SNM in
25 2005; correct?

1 A. At that point, I didn't comprehend your
2 question when I made that statement, yes, ma'am.

3 Q. So the question asked by Ms. Armijo: "Are
4 you a member of that prison gang?" What about that
5 question confused you?

6 A. I said, "Yes."

7 Q. "When did you become a member?" she asked
8 you, and you said, "2005"; correct?

9 A. Well, I meant 2003.

10 Q. Then on cross-examination in that same
11 transcript, you testified during that hearing twice
12 that you'd joined the SNM in 2005; correct?

13 A. I'm not sure. Is that what you're saying
14 I did?

15 Q. That's what I'm asking you. Do you
16 remember that you testified twice?

17 A. I don't recall.

18 Q. I'm going to show you what's page 93 of
19 the official transcript and -- actually, let's go
20 back. That hearing was on January 8 of 2018;
21 correct?

22 A. Yes, ma'am.

23 Q. And that was in the same courtroom;
24 correct?

25 A. Yes, ma'am.

1 Q. In front of Judge Browning?

2 A. Yes, ma'am.

3 Q. And you were placed under oath in that
4 hearing, as well?

5 A. Yes, ma'am.

6 Q. I'm showing you page 93. I asked you --
7 you testified on direct that you were a member of
8 the SNM beginning in 2005; correct? And you
9 answered "Correct"?

10 A. Yes, ma'am.

11 Q. And during that hearing, you also denied
12 having previously denied your membership in the SNM;
13 correct?

14 A. I previously denied it?

15 Q. I asked you at that hearing whether or not
16 you had previously denied that you were a member of
17 the SNM. Do you remember that question?

18 A. Yes, ma'am.

19 Q. And you said that you couldn't recall
20 having denied that you were a member of the SNM?

21 A. Yes, ma'am.

22 MS. ARMIJO: Your Honor, may we approach?

23 THE COURT: You may.

24 (The following proceedings were held at
25 the bench.)

1 MS. ARMIJO: I thought as part of the
2 conflict issue, Mr. Lowry was not going to be
3 assisting with the cross-examination of Mr. Duran.
4 I saw Mr. Lowry give Ms. Duncan a note. So I
5 understand the Court is not going to take him off,
6 but we would ask at least that he be firewalled from
7 assisting with this cross-examination, especially
8 given that the opening statements and our most
9 recent motion was denied.

10 THE COURT: Well, I won't wall him off.
11 But it was part of the representation, I guess. If
12 he's going to come up and feed you questions and
13 stuff like that, it seems to me it's not consistent
14 with --

15 MS. DUNCAN: I can ask him not to do that,
16 Your Honor.

17 THE COURT: Okay.

18 (The following proceedings were held in
19 open court.)

20 THE COURT: All right. Ms. Duncan.

21 MS. DUNCAN: Thank you, Your Honor.

22 BY MS. DUNCAN:

23 Q. Around the time that you began to
24 cooperate with the Government, you were engaged in a
25 scam of a woman named Carolyn Bueno; correct?

1 A. A scam?

2 Q. Yes.

3 A. No, ma'am.

4 Q. Do you know a woman named Carolyn Bueno?

5 A. Yes, ma'am.

6 Q. And you used her to get money; correct?

7 A. No, ma'am.

8 Q. Do you recall having a conversation with

9 your wife, Grace Duran, about Carolyn Bueno?

10 A. Yes, ma'am.

11 Q. And in that conversation with your wife,

12 you told your wife that you used Carolyn Bueno to

13 get money?

14 A. I tell my wife whatever I tell my wife.

15 Q. Did you tell your wife --

16 A. Yes ma'am.

17 Q. -- that you used Carolyn Bueno to get

18 money? Let me ask the question and then you answer,

19 okay, Mr. Duran, so we have a clear record?

20 You also told your wife that you used

21 Carolyn Bueno to get drugs; correct?

22 A. Yes, ma'am.

23 Q. And that you had the same deal with a

24 woman named Linda Pena; correct?

25 A. Yes.

1 Q. And you would use her to get money?

2 A. Yes, ma'am.

3 Q. And you would use her to get drugs?

4 A. I don't recall that.

5 Q. And you would -- to their face, you would
6 tell them that you loved them; correct?

7 A. And I did love them.

8 Q. But to your wife, you would call them
9 names and tell her that you were using them;
10 correct?

11 A. Yes, ma'am.

12 Q. And eventually you introduced Carolyn
13 Bueno to Jerry Armenta; correct?

14 A. Yes, ma'am.

15 Q. I think we saw a video of that earlier.
16 You are aware that the discovery in this
17 case was loaded on tablets; correct?

18 A. Yes, ma'am.

19 Q. And that included witness statements,
20 pictures, et cetera?

21 A. I don't know what was on them.

22 Q. Well, you looked at the tablets; correct?

23 A. No, I didn't look at the tablets.

24 Q. You looked at Jerry Armenta's tablet;
25 correct?

1 A. No, ma'am.

2 Q. If we could play Defendants' Exhibit Z40,
3 please; let me find my --

4 MS. DUNCAN: Sorry, Your Honor. I'm
5 messing up all my papers up here.

6 (Tape played.)

7 Q. That was your voice; correct, Mr. Duran?

8 A. Yes.

9 Q. If we could go to marker 1540, please.
10 We've having some technical difficulties. Try
11 Defendants' Exhibit 733 -- Z33, I'm sorry. Did I
12 say something different? Play the beginning of that
13 one, so that would be at a minute 144, please.

14 (Tape played.)

15 Q. When you say, "Kreaper's laptop," you're
16 talking about Kreaper's tablet; correct?

17 A. Yes, ma'am.

18 (Tape played.)

19 Q. Do you recall telling Grace that you were
20 looking at Kreaper's tablets and reading texts
21 between you and her?

22 A. Yes, Kreaper showed me his tablets with
23 the texts.

24 Q. So you did have access to Kreaper's
25 tablet; correct?

1 A. No, I didn't have access to it.

2 Q. But you looked at Kreaper's --

3 A. He showed it to me.

4 Q. So you looked at the tablet; correct?

5 A. Yes, ma'am.

6 Q. You were able to read discovery on the
7 tablet; correct?

8 A. I read that part of the discovery.

9 Q. You were in a pod with Kreaper for how
10 long?

11 A. A year.

12 Q. And by "Kreaper," we mean Jerry Armenta;
13 correct?

14 A. Yes, ma'am.

15 Q. And you were also with other Government
16 witnesses during that time?

17 A. Yes, ma'am.

18 Q. Who else were you with?

19 A. I was with Freddie Munoz, Benjamin Clark,
20 Robert Martinez. That's it.

21 Q. Did you look at anyone's tablet other than
22 Jerry Armenta?

23 A. Did I see? Yes, I probably did. I'm
24 sure.

25 Q. We talked a little bit about the charges

1 you've incurred since agreeing to work with the
2 Government. I would like to talk to you about your
3 past charges.

4 Your first conviction, the one that
5 brought you to prison, was in 1997 for aggravated
6 burglary; correct?

7 A. Yes.

8 Q. Conspiracy to commit forgery?

9 A. Yes.

10 Q. Criminal damage to property?

11 A. Yes, ma'am.

12 Q. And it was joined with a case for
13 resisting an officer; correct?

14 A. Yes, ma'am.

15 Q. In that case you were sentenced to 13 and
16 a half years?

17 A. Yes, ma'am.

18 Q. Most of which was suspended; correct?

19 A. Yes, ma'am.

20 Q. And in that charge, you broke into
21 someone's house and stole guns; correct?

22 MS. ARMIJO: Objection, Your Honor, 609.

23 THE COURT: Well, what's the purpose,
24 other than truthfulness, that you're trying to
25 establish with this testimony?

1 MS. DUNCAN: Your Honor, this witness
2 committed the crime of theft of guns. He conspired
3 to commit forgery, and he forged checks, which was
4 an act of dishonesty. And I think those are facts
5 that the jury is entitled to hear in assessing his
6 credibility as a witness.

7 THE COURT: I don't think the theft of the
8 guns are. If you want to get into the forgery, I'll
9 allow that.

10 MS. DUNCAN: Thank you, Your Honor.

11 BY MS. DUNCAN:

12 Q. So the charge of conspiracy to commit
13 forgery was based on forging checks; correct?

14 A. Yes, ma'am.

15 Q. And you're currently under investigation
16 for forging checks; correct?

17 A. Not that I'm aware of.

18 Q. You're aware that when you were arrested
19 in November of -- not arrested, but after the crash
20 in 2017, a check was found, a stolen check was found
21 written out to you; correct?

22 A. No.

23 MR. DEL VALLE: I'm going to object to
24 that for the same basis.

25 THE COURT: Are these not charged yet?

1 MR. DEL VALLE: He's not charged yet. And
2 he would stand on his Fifth Amendment rights.

3 THE COURT: Are you going to follow your
4 counsel's advice, Mr. Duran?

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: All right. Let's not get into
7 the facts, if these are pending charges or they're
8 not charged yet.

9 BY MS. DUNCAN:

10 Q. When you were arrested, you hid from
11 officers, correct, in 1997?

12 A. Yes, ma'am.

13 Q. You gave the officers a false name?

14 A. Yes, ma'am.

15 Q. And resisted arrested; correct?

16 A. Yes, ma'am.

17 Q. Now, while you were on probation in that
18 case, you were arrested for new charges; correct?

19 A. Yes, ma'am.

20 Q. In August of 1998?

21 A. Yes, ma'am.

22 Q. And in that case you were convicted of two
23 counts of aggravated assault on a peace officer;
24 correct?

25 A. Yes, ma'am.

1 Q. Unlawful taking of a motor vehicle?

2 A. Yes, ma'am.

3 Q. And again, resisting arrest; correct?

4 A. Yes, ma'am.

5 Q. And you were sentenced to 11 and a half
6 years in that case?

7 A. Yes, ma'am.

8 Q. None of it was suspended; correct?

9 A. Correct.

10 Q. And in that case you also gave officers a
11 fake name; is that right?

12 A. Yes.

13 Q. You were arrested for concealing identity?

14 A. Yes, ma'am.

15 Q. Placed in the back of a police car?

16 A. Yes, ma'am.

17 Q. And then you climbed over the seat of the
18 police car into the front and drove away?

19 A. Yes, ma'am.

20 Q. And one of the officers tried to stop you
21 by holding onto the police car?

22 A. Yes, ma'am.

23 Q. And you ended up dragging him several
24 feet?

25 A. Yes, ma'am.

1 Q. And this was the charge of aggravated
2 assault on a police officer; correct?

3 A. Yes, ma'am.

4 Q. You dragged the officer 20 to 30 feet;
5 correct?

6 A. Yes, ma'am.

7 Q. And you forced that officer to fire his
8 weapon to stop you from stealing his car; correct?

9 A. Yes, ma'am.

10 Q. And he was ultimately thrown from that
11 vehicle; correct?

12 A. Yes, ma'am.

13 Q. And sustained injuries?

14 A. Yes, ma'am.

15 Q. You were released -- when were you
16 released for that offense?

17 A. In 2003.

18 Q. And while you were on parole for that
19 case, you committed your next offense; correct?

20 A. Yes, ma'am.

21 Q. In 2005, you were convicted of murder in
22 the second degree?

23 A. Yes, ma'am.

24 Q. And while you were pending trial on that
25 case, you were released on bond; correct?

1 A. Yes, ma'am.

2 Q. And you fled the state?

3 A. Yes, ma'am.

4 Q. So you made a promise to the Court that
5 you would follow certain conditions; correct?

6 A. Yes, ma'am.

7 Q. And then you violated those conditions?

8 A. Yes, ma'am.

9 Q. And New Mexico -- you fled to Nebraska;
10 correct?

11 A. Yes, ma'am.

12 Q. And New Mexico law enforcement had to go
13 to Nebraska to get you and bring you back?

14 A. Yes, ma'am.

15 Q. Then, finally, in 2014, while
16 incarcerated, you were convicted of possession of a
17 deadly weapon by an inmate; correct?

18 A. Yes, ma'am.

19 Q. You were sentenced to nine years in that
20 case?

21 A. I was sentenced to -- yes, ma'am.

22 Q. With eight years suspended?

23 A. Yes, ma'am.

24 Q. So you had to serve one year, and then you
25 were placed on probation; correct?

1 A. Yes.

2 Q. And that's the probation that you violated
3 when you were arrested for felon in possession of a
4 firearm; correct?

5 A. Yes, ma'am.

6 Q. And for failing to report to your
7 probation officer?

8 A. Yes, ma'am.

9 Q. And the State of New Mexico filed a
10 probation violation report against you; correct?

11 A. Yes, ma'am.

12 Q. And that petition was filed January 30,
13 2018; correct?

14 A. Yes, ma'am.

15 Q. And there were a number of grounds. There
16 was concealing identity from law enforcement;
17 correct?

18 A. Yes, ma'am.

19 Q. And that was lying to the officer when you
20 were arrested on December 15 of 2017?

21 A. Yes, ma'am.

22 Q. The felon in possession charge which we've
23 discussed; correct?

24 A. Yes, ma'am.

25 Q. The possession of heroin charge we've

1 discussed?

2 A. Yes, ma'am.

3 Q. And then failure to report as promised;
4 correct?

5 A. Yes, ma'am.

6 Q. And the probation officer in that case was
7 recommending that your probation be revoked and you
8 serve the remainder of your sentence in prison;
9 correct?

10 A. Yes, ma'am. That's my parole officer.

11 Q. You're also on probation, too; correct?

12 A. She made a parole recommendation. There
13 is a difference. A judge decides a probation case.

14 Q. But your probation officer makes a
15 recommendation to the judge; correct?

16 A. For parole; it says parole revocation
17 recommendation, not probation.

18 Q. I'm marking for identification purpose
19 Defendants' FS, as in Sam. I'm showing you FS. Do
20 you recognize this document, Mr. Duran?

21 A. No, ma'am.

22 Q. Is this your name on this document?

23 A. Yes, ma'am. I haven't seen that document.
24 That's the first time I've seen it.

25 Q. And this is a petition to revoke

1 probation?

2 A. Yes, ma'am.

3 Q. At some point they were going to transport
4 you to a probation revocation hearing; correct?

5 A. I'm unaware of that. Like I said, that's
6 the first time I seen that petition.

7 Q. So you were unaware that they had moved to
8 revoke your probation?

9 A. Yes, ma'am. The only thing I've seen is a
10 parole violation revocation hearing.

11 Q. So you also are unaware that they filed a
12 supplemental criminal information seeking an
13 enhanced sentence based on your criminal history?

14 A. I'm unaware of that, too.

15 Q. And are you also unaware that the State
16 filed a notice of withdrawal in this case indicating
17 that you would not be transported as long as there
18 are pending federal charges against you?

19 A. I'm unaware of that, too, ma'am.

20 MS. DUNCAN: If I may have a moment, Your
21 Honor?

22 THE COURT: You may.

23 MS. DUNCAN: Your Honor, I think we've
24 gotten these phone calls to play.

25

1 BY MS. DUNCAN:

2 Q. So earlier we were talking about threats
3 you made against Ivy to whoop her ass. Do you
4 remember that conversation?

5 A. Yes, ma'am.

6 Q. And you telling Ivy you would whoop her
7 ass so she would know who the boss is?

8 A. Yes, ma'am, I probably did say that.

9 Q. And you told your wife that she should
10 whoop Ivy's ass when her grandmother left the house;
11 correct?

12 A. I don't recall.

13 Q. Do you recall telling Grace that you were
14 going to whoop Ivy's ass until her butt hurt when
15 you got out?

16 A. I don't recall that either.

17 MS. DUNCAN: Your Honor, this is
18 Defendants' Exhibit Z25 at 11:30.

19 (Tape played.)

20 MS. ARMIJO: Your Honor, I believe I
21 objected previously as to foundation as to a time
22 period.

23 THE COURT: Well, do you have any better
24 way to lay a foundation?

25 MS. DUNCAN: Sure, Your Honor.

1 BY MS. DUNCAN:

2 Q. Were you incarcerated at PNM Level 6 in
3 August, August 15 of 2016?

4 A. Yes, ma'am.

5 Q. And that was just a few months before you
6 were released from custody; correct?

7 A. A month, yes.

8 Q. And during that time, did you talk to your
9 wife, Grace Duran?

10 A. On several occasions, yes, ma'am.

11 Q. And made plans to get out of custody?

12 A. Yes, ma'am.

13 Q. And had conversations with her about Ivy?

14 A. Yes, ma'am.

15 MS. DUNCAN: Your Honor, we're having some
16 technical difficulties. Can we take about a
17 five-minute break to fix this problem?

18 THE COURT: All right. We'll be in recess
19 for a few minutes. All rise.

20 (The jury left the courtroom.)

21 MS. ARMIJO: Your Honor, if she's trying
22 to impeach, then we're going to ask it be done
23 outside the presence of the jury, because I believe
24 he indicated that he possibly did so. If she is
25 trying to refresh his recollection, we would request

1 that it be done outside the presence of the jury,
2 and then he can testify to it.

3 THE COURT: Well, there's a couple of
4 statements where he said he didn't know. And so I
5 guess on those she can go ahead and impeach him.
6 The ones where he said yes, I don't think we need to
7 hear the tape, because there is nothing to impeach.

8 MS. DUNCAN: I've eliminated several calls
9 based on that. There is just one -- I think part of
10 the problem, Your Honor, is most of the calls will
11 show a 20-minute call, but there's just a handful
12 that for some reason, when you pull it up on certain
13 software, it just shows five minutes, even though it
14 is actually 20 minutes long. So that's the problem.

15 THE COURT: What statement are you trying
16 to impeach at this point?

17 MS. DUNCAN: Your Honor, I think there
18 were two statements. One was he -- the witness told
19 his wife that he was going to beat Ivy until it
20 hurt. Another --

21 THE COURT: What was his answer as to
22 that?

23 MS. DUNCAN: He didn't think he had said
24 it.

25 THE COURT: Okay. What's the other

1 statement?

2 MS. DUNCAN: I think the other was telling
3 his wife to hit Ivy outside the presence of the
4 child's grandmother.

5 THE COURT: His answer as to that?

6 MS. DUNCAN: I thought that he said that
7 he didn't remember saying that, Your Honor.

8 THE COURT: Okay. Well, then, let's
9 refresh his memory as to the first one -- or the
10 second one, and then you can impeach him as to the
11 first.

12 THE CLERK: Your Honor, we have some
13 defendants that have stepped out.

14 THE COURT: All right. We'll be in
15 recess.

16 (The Court stood in recess.)

17 THE COURT: All right. We'll go back on
18 the record. Ms. Armijo.

19 MS. ARMIJO: Your Honor, I believe that we
20 have found the transcript reference, those two
21 questions that were asked, and in both of them the
22 question was: "And you told your wife that she
23 should whoop Ivy's ass when her grandmother left the
24 house; correct?"

25 His answer was, "I don't recall."

1 "Do you recall telling Grace that you were
2 going to whoop Ivy's ass until her butt hurt when
3 you got out?"

4 "I don't recall that either."

5 So for those two questions, we request
6 that if his memory is going to be refreshed, that it
7 be done outside of the presence of the jury.
8 Because he did indicate "I don't recall" to both of
9 those.

10 THE COURT: Are those the two statements
11 you're intending to impeach?

12 MS. DUNCAN: There was one other one, "I'm
13 going to fuck her ass up."

14 THE COURT: What did he say as to that?

15 MS. DUNCAN: Your Honor, I was getting
16 ready to play that. It was one of the ones -- if we
17 can't get it to play, then I'll just move on.

18 THE COURT: Well, go ahead and refresh his
19 memory with these two statements, if you need to
20 play it audibly. If you have a transcript --

21 MS. DUNCAN: I unfortunately don't. These
22 are the calls we just got from the Government, so
23 we've been --

24 THE COURT: Go ahead and play them.

25 And Mr. Duran, I'll remind you you're

1 still under oath.

2 MS. ARMIJO: And Your Honor, we did find
3 the other one. The question was: "And you telling
4 Ivy you would whoop her ass so she would know who
5 was the boss?"

6 And he said, "Yes, ma'am. I probably did
7 say that."

8 So we would ask that that not be played
9 because he had made an admission.

10 THE COURT: I think that one you got an
11 admission on.

12 MS. DUNCAN: That's fine. I wasn't
13 planning on playing that.

14 THE COURT: Let's play the one you want to
15 refresh his recollection on.

16 (Tape played.)

17 THE COURT: All right. Have you now
18 refreshed the witness, Ms. Duncan?

19 MS. DUNCAN: Yeah, there was a little bit
20 more.

21 (Tape played.)

22 MS. DUNCAN: That's the clip, Your Honor.

23 THE COURT: All right. Anything else we
24 need to take up before we bring the jury in? Ms.
25 Armijo?

1 MS. ARMIJO: No, Your Honor.

2 THE COURT: Ms. Duncan? Any other
3 defendant?

4 MS. DUNCAN: No, Your Honor.

5 (The jury entered the courtroom.)

6 THE COURT: All right.

7 Mr. Duran, I'll remind you that you're
8 still under oath.

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: All right. Ms. Duncan, if you
11 wish to continue your cross-examination of
12 Mr. Duran, you may do so at this time.

13 MS. DUNCAN: Thank you, Your Honor.

14 BY MS. DUNCAN:

15 Q. Before the break, we were talking about
16 threats you made against Ivy Maldonado; correct?

17 A. Yes, ma'am.

18 Q. And you threatened that you were going to
19 fuck up Ivy's ass; correct?

20 A. Yes, ma'am.

21 Q. And you also threatened to slap her in the
22 back of the head instead of the mouth; correct?

23 A. Yes, ma'am.

24 Q. On direct examination, Ms. Armijo asked
25 you about a settlement that you received after you

1 were beaten by correctional officers. Do you
2 remember that?

3 A. Yes, ma'am.

4 Q. And you testified that it was a
5 confidential settlement; correct?

6 A. Yes, ma'am.

7 Q. So you couldn't testify -- you couldn't
8 tell this jury the amount of money that you received
9 from that settlement; right?

10 A. Yes, ma'am.

11 Q. But you've previously disclosed to others
12 how much you received in that settlement; correct?

13 A. Not that I recall.

14 Q. In February of 2015, when you met with law
15 enforcement, you told them how much you received in
16 that settlement?

17 A. I gave them an amount, yes.

18 Q. You told them you'd received a million
19 dollars; correct?

20 A. I gave them an amount.

21 Q. You told them that you received a million
22 dollars; correct?

23 A. Yes, ma'am.

24 Q. And you represented to them that that was
25 the amount of the settlement that you had received;

1 correct?

2 A. Yes, ma'am.

3 Q. This confidential settlement?

4 A. Yes, ma'am.

5 Q. You've received several benefits as a
6 result of working with the Government; correct?

7 A. Yes, ma'am.

8 Q. I think you testified on direct that you
9 received a lump sum award of two years' good time?

10 A. Yes, ma'am.

11 Q. So without that good time, you would still
12 be in the Department of Corrections as of today;
13 correct?

14 A. Yes, ma'am.

15 Q. Because your release date was November
16 2018?

17 A. Yes, ma'am.

18 Q. So but for the Department of Corrections
19 giving you a lump sum, you would not have been
20 investigated for slapping Ivy Maldonado; correct?

21 A. Yes, ma'am.

22 Q. And you would not have been investigated
23 for prostitution; correct?

24 A. I don't think I was ever investigated for
25 prostitution.

1 Q. Or you would not have had contact with law
2 enforcement in the course of a prostitution sting;
3 correct?

4 A. Yes, ma'am.

5 Q. And you would not have been arrested for
6 being a felon in possession of a firearm?

7 A. Yes, ma'am.

8 Q. Or being a person in possession of heroin?

9 A. Yes, ma'am.

10 Q. Or being investigated with someone with
11 forged checks?

12 A. Yes, ma'am.

13 Q. You also received free phone calls while
14 you were at PNM; correct?

15 A. Yes.

16 Q. And the United States Government agreed
17 not to charge you for criminal conduct that you
18 alleged you committed on behalf of the SNM; correct?

19 A. Yes, ma'am.

20 Q. You also -- the Government agreed to --
21 when you were out on parole that you'd be supervised
22 by a private parole officer; correct?

23 A. A parole officer. I don't know if he was
24 private.

25 Q. Didn't you tell your wife that FBI agent

1 Bryan Acee had told you that he had a special
2 probation officer to supervise you once you were
3 released?

4 A. A probation officer that had knowledge of
5 what I was doing and why I was there.

6 Q. And that that probation, once you were out
7 on the streets -- that the conditions of your
8 probation would start disappearing; correct?

9 A. Because I'd be doing my time.

10 Q. Well, you're out on the streets, you
11 wouldn't be doing time; you'd be on probation;
12 correct?

13 A. I'd be doing my probation time.

14 Q. And that the conditions of your probation
15 would start disappearing; correct?

16 A. I don't know about the conditions, no.

17 Q. Let's see Z23 -- I'm looking at
18 Defendant's Exhibit Z23. It's at 1638. It's not
19 going to play? Okay, I'll move on.

20 You believed, when you were cooperating,
21 that you would be given a new identity; correct?

22 A. Yes, ma'am.

23 Q. And that you would be able to start over
24 without a criminal record?

25 A. Yes, ma'am.

1 Q. And that your credit history would also be
2 erased; correct?

3 A. Yes, ma'am.

4 Q. As would Grace's, your wife?

5 A. Yes, ma'am.

6 Q. And you were paid, I think you said,
7 almost \$50,000?

8 A. To my knowledge, yes, ma'am.

9 Q. You were paid while you were incarcerated;
10 correct?

11 A. Yes, ma'am.

12 Q. You received a lump sum of \$25,000 on July
13 20, 2016?

14 A. Yes, ma'am.

15 Q. And you received another payment five days
16 later for \$6,000?

17 A. Yes, ma'am.

18 Q. And when we were talking earlier about
19 those pictures of you with the money and the fur
20 coat, that was after you had been paid by the
21 federal government; correct?

22 A. Are you distinguishing my lawsuit money or
23 the money that the Government gave me?

24 Q. Did the federal government give you money
25 for a lawsuit?

1 A. You asked me if I bought the fur coat with
2 the federal government money. I said yes.

3 Q. And then, yes, so did you buy that fur
4 coat after the federal government gave you \$25,000?

5 A. Yes. I was in Portland and it was cold.

6 Q. And did you buy that grille after the
7 federal government gave you \$25,000?

8 A. Yes, ma'am.

9 Q. While you had a cellphone that the
10 Government had given you to record conversations,
11 you used it for personal business; correct?

12 A. Yes, ma'am.

13 Q. You used it to play Fantasy Football?

14 A. Yes.

15 Q. Send pictures of yourself?

16 A. Yes, ma'am.

17 Q. You deleted photographs off of that
18 cellphone; correct?

19 A. Not that I recall -- oh, yeah, I deleted
20 some pictures of myself that I didn't like, yes,
21 ma'am.

22 Q. And did you receive pictures of women on
23 that cellphone?

24 A. Yes.

25 Q. Did you delete those?

1 A. No, ma'am.

2 Q. So if those photographs are no longer on
3 the phone, do you know who deleted them?

4 A. I have no recollection.

5 Q. I believe you testified on direct that you
6 spent six months with Mr. Baca; correct?

7 A. Yes, ma'am.

8 MS. DUNCAN: Your Honor, at this time, I
9 would move admission of Defendants' Exhibit V4,
10 which is an offender physical location history for
11 Anthony Ray Baca.

12 THE COURT: Any objection, Ms. Armijo?

13 MS. ARMIJO: No, Your Honor.

14 THE COURT: Any objection from any other
15 defendant? Not hearing any, Defendants' Exhibit V4
16 will be admitted into evidence.

17 (Defendants' Exhibit V4 admitted.)

18 MS. DUNCAN: And Your Honor, we'd also
19 move the admission of Exhibit V9, which is
20 Mr. Duran's offender physical location history.

21 THE COURT: Any objection to that, Ms.
22 Armijo?

23 MS. ARMIJO: No, Your Honor.

24 THE COURT: Any other defendant have any
25 objection?

1 Not hearing any, Defendants' Exhibit V9
2 will be admitted into evidence.

3 (Defendants' Exhibit V9 admitted.)

4 MS. ARMIJO: Your Honor, I am objecting to
5 V4, because it is not Mr. Baca's complete location
6 history.

7 THE COURT: Well, do you have any
8 objection to the whole thing coming in? Does
9 somebody have a complete packet?

10 MS. DUNCAN: Your Honor, I have no
11 objection. This is what I received from the
12 Department of Corrections in response to a request
13 for Mr. Baca's location offender history.

14 THE COURT: Okay. But you think there is
15 more to it?

16 MS. ARMIJO: Yes, Your Honor. It starts
17 in 2008. And we know he's been in longer than 2008.

18 MS. DUNCAN: It starts in 1997. But, yes,
19 we would agree that he was in prison before 1997.

20 THE COURT: All right. So we'll agree to
21 admit this, and supplement it when we get the
22 complete package.

23 MS. DUNCAN: I have no objection.

24 THE COURT: Is that all right with you,
25 Ms. Armijo?

1 MS. ARMIJO: Yes, Your Honor.

2 THE COURT: So we'll have Defendants'
3 Exhibit V4, with the understanding we'll supplement
4 when we get the complete packet.

5 MS. DUNCAN: Thank you, Your Honor.

6 So if I could have the Elmo.

7 BY MS. DUNCAN:

8 Q. Mr. Duran, have you ever seen a document
9 like this?

10 A. No, ma'am.

11 Q. I'll represent to you this is an offender
12 physical location history; there are a few of these
13 in this case, and this is the one for Anthony Ray
14 Baca. I'd like to show you -- point to January 17,
15 2013 to June 27, 2013. Do you see that, right above
16 my finger?

17 A. Yes, ma'am.

18 Q. Does this indicate that Mr. Baca was at
19 the Southern New Mexico Correctional Facility in
20 housing unit A-1, pod B, cell 111?

21 A. Yes, ma'am.

22 Q. And is this a time period when you were
23 also at Southern New Mexico Correctional Facility?

24 A. Yes, ma'am.

25 Q. So now I'm showing you Defendants' Exhibit

1 V9, and I'm again under -- whoops, showing you
2 October 25, 2012, to July 1st, 2013. Do you see
3 that?

4 A. Yes, ma'am.

5 Q. And during that time you were also at
6 Southern New Mexico Correctional Facility?

7 A. Yes, ma'am.

8 Q. The same housing unit A-1; correct?

9 A. Yes, ma'am.

10 Q. But a different pod?

11 A. Yes, ma'am.

12 Q. You testified on direct -- I'm going to
13 move on to a different topic. You testified on
14 direct that you did not know in December of 2015
15 that Mario Montoya was working for the Government;
16 correct?

17 A. Yes, ma'am.

18 Q. But in November of 2015, you exchanged
19 text messages with Bryan Acee indicating that you
20 suspected he was a Government informant; correct?

21 A. I did not know, yes, ma'am.

22 Q. And on November 11, 2015, Bryan Acee told
23 you in an exchange of texts with Bryan Acee, "Have
24 Mario do it. We have a wire on a tracker on him";
25 correct?

1 A. I don't recall that.

2 MS. DUNCAN: May I approach, Your Honor?

3 THE COURT: You may.

4 BY MS. DUNCAN:

5 Q. I'm going to show you -- if you would look
6 at this entry.

7 A. Okay.

8 Q. So on November 11, 2015, you received a
9 text from Bryan Acee that said, "Have Mario do it.
10 We have a wire and tracker on him"; correct?

11 A. Yes, ma'am. But that doesn't indicate
12 that he was working with the FBI. That just
13 indicates that he was being monitored by the FBI.

14 Q. On November 11, 2015, you sent a text to
15 Bryan Acee where you said, "Don't trip, man. I got
16 you. And from conversation Mario had with Pup, I
17 could tell Mario on our team. But you slick. I'm
18 going to swing him to Mario then others" -- I have
19 no idea what you're saying here; correct?

20 A. Yes, I'm still indicating that I suspect
21 he's working with the FBI. But Bryan Acee is
22 continually expressing to me that he is not.

23 Q. But you're saying, "From the conversation,
24 I could tell Mario and I are on our team"; correct?

25 A. I suspect, yes.

1 MS. DUNCAN: If I could have a moment,
2 Your Honor.

3 THE COURT: You may.

4 BY MS. DUNCAN:

5 Q. Now, at different points when you were
6 cooperating, you complained to Government agents
7 about not being -- what you felt like was not being
8 treated right; correct?

9 A. Yes, ma'am.

10 Q. For example, you wrote a letter to Sergio
11 Sapien complaining about the harshness of the
12 disciplinary sanction you received for threatening
13 Sergeant Urtiaga; correct?

14 A. Yes, ma'am.

15 Q. And Sergio Sapien is the Captain of STIU?

16 A. Yes, ma'am.

17 Q. And he was one of your handlers?

18 A. Yes, ma'am.

19 Q. You also sent a letter to Ms. Armijo
20 following your arrest in November of this year --
21 I'm sorry, in December of this year; correct?

22 A. Yes, ma'am.

23 Q. And complaining about being treated like
24 other Government witnesses in this case?

25 A. Yes, ma'am.

1 Q. And asking her to let you out so you could
2 continue working?

3 A. Yes, ma'am.

4 Q. And in the past when the Government hasn't
5 given you what you wanted, you've threatened to
6 quit; correct?

7 A. I don't recall. And I'm here today, so
8 no.

9 Q. That's my question. The question is: In
10 the past have you threatened to stop cooperating if
11 you don't get what you wanted?

12 A. I don't recall.

13 MS. DUNCAN: Can you pull up Defendants'
14 Exhibit Z36?

15 MS. ARMIJO: And Your Honor, since the
16 witness indicated he didn't recall, we'd request
17 that the witness listen to it outside the presence
18 of the jury.

19 THE COURT: Do you have a transcript of
20 this?

21 MS. DUNCAN: Unfortunately, these are the
22 calls we just received, so no, I don't.

23 THE COURT: All right. Let's excuse the
24 jury. All rise.

25 (The jury left the courtroom.)

1 THE COURT: All right. Everyone be
2 seated.

3 MS. DUNCAN: Your Honor, unfortunately,
4 this is one of those that can't play. We'll have to
5 move on.

6 THE COURT: So you can't refresh the
7 witness' memory?

8 MS. DUNCAN: It's one of the ones that --
9 still? Maybe? Your Honor, we're not able to play
10 it. I apologize for the inconvenience.

11 THE COURT: All right. Ms. Standridge, if
12 you'll line the jury up and get them ready to come
13 back in.

14 (The jury entered the courtroom.)

15 THE COURT: All right. Mr. Duran, I'll
16 remind you're still under oath.

17 Ms. Duncan, if you wish to continue your
18 cross-examination of Mr. Duran, you may did so.

19 MS. DUNCAN: Thank you, Your Honor.

20 BY MS. DUNCAN:

21 Q. Before the break, Mr. Duran, you were
22 testifying about not cooperating if the -- I asked
23 you questions about that, about threats that you had
24 made if the Government didn't give you what you
25 want; correct?

1 A. You're saying I said --

2 Q. I had asked you questions about that;
3 correct?

4 A. Yes, ma'am.

5 Q. And you responded, "Well, I'm here now";
6 correct?

7 A. Yes, ma'am.

8 Q. You're not here voluntarily, though, are
9 you, Mr. Duran?

10 A. Yes.

11 Q. In December 15, 2017, you were arrested in
12 Portland, Oregon; correct?

13 A. I still have a choice to be here today,
14 regardless if I'm in jail or not.

15 Q. You're aware that the Government filed
16 what's called a writ of testificandum to bring you
17 from state custody into federal custody to testify
18 here today?

19 A. No, I'm not aware of that.

20 Q. But you are aware on September 15, 2017,
21 when you were stopped by a police officer, you gave
22 him a false name; correct?

23 A. Yes, ma'am.

24 Q. And that was to avoid being arrested?

25 A. Yes, ma'am.

1 Q. Because you knew there was a warrant out
2 for your arrest?

3 A. Yes.

4 Q. And you knew you were wanted here in New
5 Mexico?

6 A. Yes, ma'am.

7 Q. And you were -- so you were arrested in
8 Oregon, and then you were brought in custody to New
9 Mexico?

10 A. Yes, ma'am.

11 Q. And are you currently in custody?

12 A. Yes, ma'am.

13 Q. The only time you and Mr. Baca were ever
14 housed in the same pod is when you were recording
15 him; correct?

16 A. Yes, ma'am.

17 Q. When you were in Southern New Mexico
18 Correctional Facility, you were always in different
19 pods?

20 A. Yes, ma'am.

21 Q. And at this time, Mr. Duran, you are
22 facing potential charges in Portland, Oregon;
23 correct?

24 A. Yes, ma'am.

25 Q. You are also facing potential federal

1 charges?

2 A. Yes.

3 Q. And a probation revocation which could
4 send you back to prison here in New Mexico?

5 A. Yes, ma'am.

6 Q. And this is all for conduct that you
7 undertook since agreeing to be a Government witness;
8 correct?

9 A. Yes, ma'am.

10 MS. DUNCAN: If I could just have a
11 moment, Your Honor?

12 THE COURT: You may.

13 MS. DUNCAN: I have no further questions,
14 Your Honor.

15 THE COURT: Thank you, Ms. Duncan.

16 Further cross-examination, Ms. Bhalla?

17 MS. BHALLA: Yes, Your Honor. Thank you.

18 THE COURT: Ms. Bhalla.

19 CROSS-EXAMINATION

20 BY MS. BHALLA:

21 Q. Good afternoon, Mr. Duran.

22 A. Good afternoon, ma'am.

23 Q. Do you recall meeting with STIU in
24 February of 2015?

25 A. Yes, ma'am.

1 Q. And I believe that Chris Cupit was at that
2 meeting; do you recall?

3 A. Yes, ma'am.

4 Q. And Sergio Sapien?

5 A. Yes, ma'am.

6 Q. And I believe that someone from the FBI
7 was there as well, Katherine Brusuelas; do you
8 recall?

9 A. Yes, ma'am.

10 Q. And in that meeting with them, you gave
11 them information about the murder of Javier Molina,
12 didn't you?

13 A. Yes, ma'am.

14 Q. And you also gave them information about
15 green lights that were outstanding. Do you recall
16 that?

17 A. Yes, ma'am.

18 Q. And do you recall telling them that Carlos
19 Herrera had a green light on him?

20 MS. ARMIJO: Objection, foundation.

21 MS. BHALLA: I'm asking him whether or not
22 he provided this information to the agents in the
23 meeting, Your Honor.

24 THE COURT: Don't consider this for the
25 truth of the matter. This is simply to ask some

1 credibility questions as to whether he's testifying
2 credibly here in court. But you can't consider the
3 truth of the earlier statement for the truth of the
4 matter.

5 MS. ARMIJO: Your Honor, I don't think
6 he's being impeached. I think Ms. Bhalla wants to
7 get it in for the truth of the matter asserted.

8 MS. BHALLA: I'm asking, Your Honor,
9 whether or not that was the information that he
10 relayed.

11 THE COURT: Well, let's see what his
12 answer is. Overruled.

13 The same instruction to you. It's a yes
14 or no question at this point.

15 A. I don't recall.

16 BY MS. BHALLA:

17 Q. Would it refresh your recollection if I
18 showed you a copy of the report?

19 A. Yes, ma'am.

20 MS. BHALLA: Your Honor, may I approach?

21 THE COURT: You may.

22 BY MS. BHALLA:

23 Q. Just let me know when you're ready,
24 Mr. Duran.

25 A. Yes, ma'am. I'm ready.

1 MS. BHALLA: Thank you. May I approach,
2 Your Honor?

3 THE COURT: You may.

4 BY MS. BHALLA:

5 Q. Did you tell STIU at that meeting that
6 there was a current outstanding hit on Carlos
7 Herrera?

8 A. Yes, ma'am.

9 MS. ARMIJO: Objection, foundation.

10 THE COURT: Well, there's a lot of things
11 there. I'm just going to instruct the jury you
12 can't consider these statements for the truth of the
13 matter, and if you're not trying to impeach him,
14 then don't ask that type of question again.

15 MS. BHALLA: Okay, Your Honor.

16 BY MS. BHALLA:

17 Q. How did you get that information?

18 MS. BHALLA: I think that will go to
19 foundation, Your Honor.

20 A. How did I get the information that the
21 green light was on him?

22 Q. Yes.

23 A. Because I knew that he didn't follow an
24 order by Pup.

25 MS. BHALLA: Nothing further, Your Honor.

1 Pass the witness. Thank you.

2 THE COURT: Thank you, Ms. Bhalla.

3 Mr. Villa.

4 MR. VILLA: Thank you, Your Honor.

5 THE COURT: Mr. Villa.

6 CROSS-EXAMINATION

7 BY MR. VILLA:

8 Q. Good afternoon, Mr. Duran.

9 A. Good afternoon, sir.

10 Q. You testified yesterday about a
11 conversation you had with Mr. Perez in the yard at
12 PNM. Do you remember that?

13 A. Yes, sir.

14 Q. And I think it was your direct testimony
15 that that conversation occurred approximately August
16 of 2015?

17 A. Yeah, around that time, yes, sir.

18 Q. So in August of 2015 you were at PNM
19 North; right?

20 A. Yes, sir.

21 Q. And I think you said there was a shakedown
22 in the pod so everybody was taken out to the yard?

23 A. Yes, sir.

24 Q. So if I understand that correctly, the
25 shakedown is when correctional officers are

1 searching the pods, searching the cells in the pod
2 for contraband and things like that; right?

3 A. Yes, sir.

4 Q. And that happens fairly regularly?

5 A. About every 90 days.

6 Q. Every 90 days?

7 A. With us, it happens all the time. But
8 usually every 90 days.

9 Q. Okay. And they do that, they take
10 everybody outside to the yard?

11 A. Yes, sir.

12 Q. So that the inmates aren't there while
13 they're searching their cells; correct?

14 A. Yes, sir.

15 Q. So you were out in the yard and Mr. Perez
16 was out in the yard; is that right?

17 A. Yes, sir.

18 Q. And I think in the yard there at PNM North
19 you're in cages, basically; right?

20 A. Yes.

21 Q. I think we've heard them described as,
22 like, 7-by-7 cages that you can walk around in and
23 that sort of thing?

24 A. Yes, sir.

25 Q. So I take it from your testimony that you

1 were in a cage near or adjacent to Mr. Perez?

2 A. Yes, sir.

3 Q. And your testimony yesterday was that you
4 had a particular conversation in the yard with
5 Mr. Perez; is that right?

6 A. Yes, sir.

7 Q. And I think you said to the jury that Mr.
8 Perez told you not to underestimate him; right?

9 A. Yes, sir.

10 Q. But he actually told you not to
11 underestimate him because he's in a wheelchair;
12 right?

13 A. Yes, sir.

14 Q. And at that time, Mr. Perez was in a
15 wheelchair, wasn't he?

16 A. Yes. Well, he wasn't in a wheelchair but
17 he didn't have his walker because it was used to
18 make shanks.

19 Q. Well, Mr. Duran, you weren't in -- you're
20 referring to the allegation against Mr. Perez in
21 this case; right?

22 A. I'm referring to the allegations of what
23 he told me why his walker was taken away.

24 Q. Well, Mr. Duran, it's funny because you
25 didn't testify about that yesterday. So why don't

1 we talk about the question that I'm asking you.

2 MS. ARMIJO: Objection, argumentative.

3 THE COURT: Don't argue the evidence.

4 Just ask questions.

5 BY MR. VILLA:

6 Q. Do you agree with me, Mr. Duran, that
7 yesterday you didn't testify at all about what Mr.
8 Perez did or didn't tell you about his walker?

9 A. Yes, sir.

10 Q. So you agree with that?

11 A. Yes, sir.

12 Q. And the allegations against Mr. Perez with
13 regard to the Javier Molina murder; true?

14 A. Yes, sir.

15 Q. And the Javier Molina murder took place in
16 Southern New Mexico Correctional Facility March
17 2014; right?

18 A. Yes, sir.

19 Q. You were not there in Southern in March of
20 2014; right?

21 A. No, sir.

22 Q. So you don't know what happened with Mr.
23 Perez' walker?

24 A. No, sir.

25 Q. But what you testified about yesterday was

1 that Mr. Perez told you not to underestimate him;
2 right?

3 A. Yes, sir.

4 Q. And you also testified that you'd been in
5 the SNM since, I guess it was, 2003, maybe 2005,
6 something like that; right?

7 A. Yes, sir.

8 Q. But 2015, at PNM, was the first time you'd
9 met with Mr. Perez?

10 A. Yes, sir.

11 Q. And you would agree with me that Mr. Perez
12 didn't get to PNM until June of 2015?

13 A. He got to PNM in June of '15?

14 Q. 2015, yes, sir.

15 A. Okay.

16 Q. Do you know that, yes or no?

17 A. Is that when he arrived? I don't know
18 when he arrived. I don't keep track of him.

19 Q. Let me ask you, Mr. Duran, do you know if
20 he arrived at PNM in June of 2015?

21 A. No, sir.

22 MR. VILLA: Can we see what's already been
23 admitted as Government's Exhibit V24, please. I'm
24 sorry, defense V24. Thank you.

25 Q. Mr. Duran, this has already been admitted

1 in evidence. It is an offender physical location
2 history. Have you seen one of these before?

3 A. Yes, sir.

4 Q. And this is Mr. Perez' physical location
5 history. And I will show you highlighted there is
6 June 17, 2015, to PNM. Do you see that?

7 A. Yes, sir.

8 Q. And if you go down from there -- I'm just
9 going to draw a line -- do you see where it says "to
10 Southern New Mexico Correctional Facility"?

11 A. Yes, sir.

12 Q. So he's in Southern approximately October
13 2013, according to this document, yes?

14 A. Yes, sir.

15 Q. And he stays in Southern in these
16 different housing units until he goes to PNM October
17 17, 2015; right?

18 A. Yes, sir.

19 Q. And at PNM, when he gets there, June 17,
20 2015, he's put in the North 3-B building, X pod,
21 105-S; right?

22 A. Yes, sir.

23 Q. Is that the same pod you were in?

24 A. Yes, sir.

25 Q. At that time?

1 A. Yes, sir.

2 Q. And that's the first time you met Mr.
3 Perez?

4 A. Yes, sir.

5 Q. And you know that during that time Mr.
6 Perez was at PNM North, he was normally transported
7 around in a wheelchair?

8 A. I had no knowledge of how he was
9 transported.

10 Q. You don't know, one way or another?

11 A. No, sir.

12 Q. And it's your testimony when you spoke to
13 him in the yard, he wasn't in his wheelchair?

14 A. He was in his wheelchair when I spoke to
15 him.

16 Q. He was in his wheelchair?

17 A. He was in a wheelchair.

18 Q. Maybe it was his, maybe it wasn't his.
19 But he was in a wheelchair when you spoke to him?

20 A. Yes, sir.

21 Q. And the conversation that you had with him
22 was that he wasn't to be underestimated because he's
23 in a wheelchair?

24 A. Yes, sir.

25 Q. And are you aware that at that time, 2015,

1 there were rumors that Mr. Perez had cooperated or
2 talked to STIU about the Javier Molina murder?

3 MS. ARMIJO: Objection; facts not
4 evidence.

5 A. I was.

6 MR. VILLA: And Your Honor, we got with
7 this on Mr. Martinez. It's not offered to the
8 truth. It's offered for the fact that the rumors
9 did exist.

10 THE COURT: Well, I think that it's being
11 offered for the truth. Overruled -- I mean,
12 sustained.

13 MR. VILLA: And Your Honor, if we can
14 approach, the Court's ruling with respect to Mr.
15 Martinez was the opposite. So if you'd like me
16 to --

17 THE COURT: You can come up here.

18 MR. VILLA: -- elaborate on it.

19 (The following proceedings were held at
20 the bench.)

21 MR. VILLA: Your Honor, I asked Timothy
22 Martinez the same --

23 THE COURT: What is the relevance of it
24 coming out of him?

25 MR. VILLA: Well, it's the same thing. It

1 was --

2 THE COURT: Tell me why it's relevant
3 coming out of his mouth.

4 MR. VILLA: Because it establishes that
5 the rumors existed at this time, and this is the
6 time leading up to the conversations that Mr. Perez
7 had with Billy Cordova. And Billy Cordova will
8 testify, and the conversations he had with
9 Mr. Duran, that there were rumors against Mr. Perez;
10 and that it goes to both Mr. Perez and Mr. Cordova's
11 state of mind, when he's getting these recorded
12 conversations with him, and why Mr. Perez said
13 things he said to Mr. Cordova. This is -- Mr.
14 Martinez is there at this exact same timeframe. So
15 it helps establish Mr. Perez' state of mind at the
16 time he made the statements to Mr. Duran.

17 THE COURT: How does this differ, then,
18 from what I did earlier?

19 MS. ARMIJO: I don't remember the context
20 of what you did earlier. But any rumors, by their
21 very nature, are hearsay.

22 THE COURT: Not that they just exist. I
23 think I can give a limiting instruction on this,
24 which is what I think I did with Martinez, is I said
25 you can't consider the rumors for the truth of the

1 matter. But the existence of them might cause
2 somebody to do something just because of their
3 existence. I think that's what I did with Martinez.

4 MS. ARMIJO: I think the question to him
5 would be whether or not he even knew that there are
6 rumors.

7 THE COURT: Lay a foundation. If he says
8 yes, then I'll let him answer the question. Lead
9 him so they're yes or no. Then I'll give the
10 limiting instruction.

11 MR. VILLA: Maybe I worded it wrong, but
12 that was my intent of my question, was whether he
13 knew about the rumors.

14 THE COURT: Okay. Ask it first, and say
15 it's a yes-or-no question, and see -- if he doesn't,
16 we'll have to move on. Hold on. Is V24 in
17 evidence? I had discussed it with Ms. Fox-Young.
18 But I don't have it admitted.

19 Ms. Standridge? Was V24 admitted?

20 THE CLERK: February 1st.

21 THE COURT: Well, I had with Roark that
22 Ms. Fox-Young mentioned it, but I didn't have on my
23 notes that it was admitted. But you do?

24 THE CLERK: Yes.

25 MR. VILLA: That's what I have, Your

1 Honor. It was admitted through Mr. Roark.

2 THE COURT: Okay.

3 (The following proceedings were held in
4 open court.)

5 THE COURT: All right. Mr. Villa, you can
6 ask your foundational questions, and Mr. Duran, just
7 answer yes or no.

8 THE WITNESS: All right.

9 BY MR. VILLA:

10 Q. Mr. Duran, yes or no, were you aware that
11 there were rumors about whether Mr. Perez
12 cooperated?

13 A. No, sir.

14 Q. Have you ever been made aware of those
15 rumors?

16 A. No, sir.

17 Q. You would agree with me that -- I think
18 you testified a little bit about this in your
19 direct -- in the prison setting, it's not a good
20 place for someone to show weakness, is it?

21 A. No, sir.

22 Q. As a matter of fact, it's better to show
23 strength, or act like you're tough?

24 A. Yes, sir.

25 Q. So that you wouldn't want -- if you're in

1 prison, you wouldn't want people to underestimate
2 you and think that you're weak?

3 A. No, sir.

4 Q. And if I understand it right, you met Mr.
5 Perez for the first time at PNM North. And I know
6 you don't remember when Mr. Perez got there, but you
7 don't disagree that according to that document, he
8 got there in June of 2015?

9 A. That's correct.

10 Q. And so that was the first time you met Mr.
11 Perez?

12 A. The first time I met him in person, the
13 person was in the yard.

14 Q. When you had this conversation?

15 A. Yes, sir.

16 Q. And so that was August sometime in 2015, a
17 month and a half or so after he got to PNM?

18 A. In between, yes, sir.

19 Q. And that was the first time you met him?

20 A. Yes, sir.

21 Q. Now, Mr. Duran, you would agree with me
22 that the first time you ever conveyed this
23 information about this conversation you had with Mr.
24 Perez to law enforcement was on February 18, 2018?

25 A. Yes, sir.

1 Q. So prior to that, you had been interviewed
2 by law enforcement a number of times, hadn't you?

3 A. Yes, sir.

4 Q. In fact, you'd been interviewed by law
5 enforcement, including the FBI, in August of 2015,
6 had you not?

7 A. Yes, sir.

8 Q. And you've been interviewed by them many
9 times since then?

10 A. Yes, sir.

11 Q. And it wasn't until just February 18,
12 which I guess is three days ago, four days ago --

13 A. Yes, sir.

14 Q. -- that you revealed this information for
15 the very first time?

16 A. Yes, sir.

17 Q. I believe you testified about this
18 already, but I just want to confirm that you
19 recorded conversations with Mario Rodriguez; right?

20 A. Yes, sir.

21 Q. And I think Ms. Armijo asked you about
22 this. She phrased it in terms of a confession; is
23 that right?

24 A. Yes, sir.

25 Q. Or you thought you had recorded it, but

1 maybe the device didn't work?

2 A. Yes, sir.

3 Q. And Mr. Rodriguez' confession was in
4 connection to the Molina homicide?

5 A. Yes, sir.

6 Q. So had Mr. Rodriguez not decided to work
7 for the Government, you would have testified against
8 him?

9 A. Yes, sir.

10 Q. And I think you testified you were also
11 housed with Timothy Martinez at PNM in 2015; is that
12 right?

13 A. Yes, sir.

14 Q. You recorded conversations of Mr.
15 Martinez, as well?

16 A. Yes, sir.

17 Q. Concerning the Molina homicide?

18 A. Yes, sir.

19 Q. You also would have testified against
20 Mr. Martinez?

21 A. Yes, sir.

22 Q. I want to clarify, just to make sure I
23 understand this lump sum award that we're talking
24 about. "Lump sum" is a term that is used a lot in
25 the legal field, but maybe not necessarily outside

1 of it, with respect to good time. So when you're
2 serving prison time in the state, you get good time
3 credit; right?

4 A. Yes, sir.

5 Q. And that good time credit is calculated
6 based upon whatever the crime is that you've been
7 convicted of; right?

8 A. Yes, sir.

9 Q. And then you can get additional good time
10 credit -- and when we say "good time credit," we
11 mean time off your sentence; right?

12 A. For a variety of things, yes, sir.

13 Q. Okay. So if you're sentenced to ten
14 years, there are some crimes where automatically you
15 get day-for-day credit, right, 50/50 credit?

16 A. 50/50, 65, and 85 percent.

17 Q. Okay. Depending on the type of crime?

18 A. Yes, sir.

19 Q. And you get that good time by having good
20 behavior and doing other things; right?

21 A. Yes, sir.

22 Q. And you could lose that good time if you
23 get in trouble or have discipline or have those
24 kinds of issues?

25 A. Yes, sir.

1 Q. And then the additional credits that you
2 can get, or additional time off, can be obtained
3 doing different things; right?

4 A. Yeah. Education.

5 Q. Education, vocational training, those
6 sorts of things?

7 A. Yes, sir.

8 Q. But you specifically got time off or a
9 lump sum credit off because you worked for the
10 Government; right?

11 A. No; because I saved two lives.

12 Q. So did you get any good time or additional
13 credit off for your work with the Government in this
14 case?

15 A. No, sir.

16 MR. VILLA: May I have just a moment, Your
17 Honor?

18 THE COURT: You may.

19 BY MR. VILLA:

20 Q. Sorry. I just had one other question,
21 Mr. Duran. While you were in PNM North, in this
22 2015 timeframe, were you also housed with Billy
23 Cordova?

24 A. At one point, yes.

25 Q. So at PNM, in 2015, you were housed with

1 him?

2 A. Yes, sir.

3 Q. In the fall; isn't that right?

4 A. Yes, sir.

5 MR. VILLA: That's all the questions I
6 have, Judge.

7 THE COURT: Thank you, Mr. Villa.

8 Ms. Jacks?

9 MR. JACKS: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. JACKS:

12 Q. Mr. Duran, I just want to make sure I
13 understand this lump sum situation. You got actual
14 time shaved off your sentence; right?

15 A. Yes, ma'am.

16 Q. You were in prison doing a sentence that a
17 judge had told you you were going to serve; right?

18 A. Yes, ma'am.

19 Q. And based on -- at least in part on your
20 work with the Government in this case, somebody went
21 to the Department of Correction and asked the
22 Department of Corrections to give you time off of
23 your sentence; right?

24 A. I became eligible for a lump sum.

25 Q. And somebody from law enforcement actually

1 pled your case to the New Mexico Department of
2 Corrections, did they not?

3 A. I don't have knowledge of that.

4 Q. Well, as a result of this lump sum, you
5 actually didn't have to serve two years of a
6 sentence that a court had imposed on you; right?

7 A. That's correct.

8 Q. And you were supposed to get out before
9 the lump sum -- what was your release date?

10 A. 2018.

11 Q. Do you know the month?

12 A. No.

13 Q. But you said that you got two years taken
14 off your sentence; right?

15 A. Yes, ma'am.

16 Q. And when were you released?

17 A. In 2016.

18 Q. What month?

19 A. September.

20 Q. So you were released in September 2016,
21 and if you had two years shaved off your sentence,
22 that means you would have originally been scheduled
23 for release in September of 2018; right?

24 A. Yes, ma'am.

25 Q. And so as a result of this lump sum, you

1 got basically two years out of jail free that you
2 would have otherwise had to serve?

3 A. Yes.

4 Q. And during that time is when you created
5 this persona, Zo Meechie, that we saw the
6 photographs of earlier?

7 A. During what time?

8 Q. During the time that you were out of the
9 custody of --

10 A. Yes, ma'am.

11 Q. -- enjoying this two years of get out of
12 jail free; right?

13 A. Yes, ma'am.

14 Q. And it was during that time that you
15 created this persona, Zomeechi?

16 A. Yes, ma'am.

17 Q. The guy with the fur coat and the grille
18 and hundred dollar bills all over the place?

19 A. Yes, ma'am.

20 Q. And was it also during this time that you
21 were enjoying this two years out of jail that you
22 became employed as an undercover federal informant
23 in another city?

24 A. Yes.

25 Q. And you were paid for that work?

1 A. Yes, ma'am.

2 Q. And you were permitted to go out and
3 engage in undercover criminal conduct on behalf of
4 the federal government?

5 A. No. No, ma'am.

6 Q. Did your work involve undercover work, the
7 work?

8 A. In a sense, yes. Yes, ma'am.

9 Q. And during the time that you were working
10 for the federal government while you were out on
11 this get-out-of-jail-free pass, did you continue to
12 commit criminal offenses?

13 A. No.

14 Q. Well --

15 A. I was investigated for criminal offenses.

16 Q. Were you investigated for the abuse of
17 your stepdaughter?

18 A. Yes, ma'am.

19 Q. Were you investigated for the abuse of
20 your wife?

21 A. No, ma'am.

22 Q. Were you investigated for some sort of
23 involvement in prostitution activity?

24 A. No, ma'am.

25 Q. Were you investigated -- by that time, you

1 agreed, I think, when Ms. Duncan asked you, that you
2 were detained, and there was some sort of
3 investigation that was conducted about prostitution
4 activity?

5 A. I was never detained.

6 Q. In August of 2017?

7 A. No.

8 Q. Did you become aware in August of 2017
9 that you were suspected of engaging in some sort of
10 activity related to prostitution?

11 A. No.

12 Q. In August of 2017 were you still working
13 in an undercover capacity for the federal
14 government?

15 A. Yes, ma'am.

16 Q. And were you still being paid by the
17 federal government?

18 A. Yes, ma'am.

19 Q. November 11 of 2017, that's when you were
20 arrested for possession of firearms and some sort of
21 drugs; correct?

22 A. Allegedly, yes, ma'am.

23 Q. And you got to bail out on that case;
24 right?

25 A. Yes, ma'am.

1 Q. And that the act of being able to bail
2 out -- was that, at least in part, because of your
3 position as an undercover government informant?

4 A. No, ma'am.

5 Q. Were you still working as a government
6 informant on November 11, 2017?

7 A. Yes, ma'am.

8 Q. And were you still being paid by the
9 federal government?

10 A. At this time I was, but -- yeah. Yes,
11 ma'am.

12 Q. As of the date of that arrest?

13 A. Yes, ma'am.

14 Q. At some time after that, after the federal
15 government became aware of that arrest, did they
16 terminate your services?

17 A. Yes.

18 Q. And did they stop paying you?

19 A. Yes, ma'am.

20 Q. And then, when you were in the vehicle
21 that fled from police on November 27, 2017, am I
22 correct in assuming that at that point in time you
23 were no longer working for the federal government?

24 A. I still was working with the federal
25 government.

1 Q. On November 27, 2017?

2 A. Yes.

3 Q. And were they still paying you?

4 A. No. They didn't know about the arrest.

5 Q. Weren't you obligated to tell them?

6 A. I didn't tell them.

7 Q. When did the federal government find out
8 that you'd been arrested with guns and drugs?

9 A. When you told them. I don't know.

10 Q. What makes you think I told them?

11 A. Just guessing.

12 Q. Well, Mr. Duran, this is a court. So
13 we're not asking to you guess when you answer the
14 questions.

15 A. Well, I don't know who told them.

16 Q. But you were arrested -- you were arrested
17 and brought to court, and the State of New Mexico
18 sought your extradition?

19 A. After, later on?

20 Q. Yes.

21 A. Yes, ma'am.

22 Q. And when was that?

23 A. December 15.

24 Q. Of 2017?

25 A. Yes, ma'am.

1 Q. And that's when the federal government
2 found out that you were engaged in criminal behavior
3 while you were working in this undercover capacity?

4 A. Yes, ma'am.

5 Q. In this job that you'd been set up with
6 based on your cooperation with the Government in
7 this case?

8 A. Yes, ma'am.

9 Q. And that is when they stopped paying you?

10 A. Yes, ma'am.

11 Q. Now, I want to ask you some questions
12 about the incident with Rhino that Ms. Armijo asked
13 you about yesterday and again today. First of all,
14 who is Rhino, if you know?

15 A. Rhino is a rival gang member that I've
16 known since 1992.

17 Q. What's his name? That's what I meant to
18 ask.

19 A. Daniel.

20 Q. Do you know his full name?

21 A. I believe it's Daniel Munoz.

22 Q. And when was the incident between
23 Mr. Munoz and Mr. Sanchez?

24 A. I don't recall the date.

25 Q. Can you give us any indication?

1 A. It was in 2005.

2 Q. Are you guessing, or do you know?

3 A. You asked me to give an indication. I'm
4 giving you an indication. That's when I believe it
5 was.

6 Q. You said it like a question mark at the
7 end, so I'm asking: Are you guessing?

8 A. I said 2005. I didn't put a question mark
9 on it.

10 Q. That's your best estimate?

11 A. Yes.

12 Q. Sometime in 2005?

13 A. Yes, ma'am.

14 Q. And where did the incident happen?

15 A. At that time, PNM South.

16 Q. And do you know what housing unit?

17 A. It happened in housing unit 3-B.

18 Q. And is it your testimony that you know
19 about that incident because you were present in the
20 housing unit at the time of the incident?

21 A. I know about the incident because Daniel
22 Sanchez told me about the incident.

23 Q. And I think you said that at least at one
24 point in your testimony yesterday.

25 A. And today.

1 Q. My question is -- let's forget for a
2 second about what you may or may not know from Mr.
3 Sanchez. Okay? Is it your testimony that you
4 somehow observed the incident because you were in
5 the housing unit at the time it happened?

6 A. No.

7 Q. Where were you when the incident happened?

8 A. I was housed in 1-B.

9 Q. So is it your testimony that you were at
10 PNM North -- I'm sorry, PNM South -- at the time
11 that Daniel Munoz and Mr. Sanchez fought?

12 A. Yes, ma'am.

13 Q. And is it also your testimony that you
14 were -- let me just go back for a second, because
15 prior to being at PNM South, I think you said you
16 were at another facility where this Daniel Munoz had
17 gotten into it with some people; is that right?

18 A. Yes.

19 Q. And as a result of that incident, a bunch
20 of people had been transferred to PNM South?

21 A. Yes, ma'am.

22 Q. And is it your testimony that you were
23 transferred to PNM South along with Daniel Munoz?

24 A. Yes, ma'am.

25 Q. At the same time, on the same van?

1 A. No.

2 Q. That's what I meant by "with." So can you
3 tell us what you mean by "with"?

4 A. SNM Gang members were transported, and he
5 went around the same time.

6 Q. So it's around the same time?

7 A. Yes, ma'am.

8 Q. Not necessarily on the same day?

9 A. No.

10 Q. And definitely not in the same transport?

11 A. Yes, ma'am.

12 MS. JACKS: Your Honor, at this point, I'd
13 offer a stipulation that the incident between Daniel
14 Sanchez and Daniel Munoz occurred on November 14,
15 2005, at 7:23 a.m. in Unit 3-B.

16 THE COURT: Any --

17 MS. JACKS: I'm referring to Bates page
18 3451.

19 THE COURT: Do you wish to accept the
20 stipulation, Ms. Armijo?

21 MS. ARMIJO: Yes, Your Honor, that's fine.

22 THE COURT: Is that all right with the
23 other defendants?

24 MR. VILLA: Yes, Your Honor.

25 MS. DUNCAN: Yes, Your Honor.

1 MS. BHALLA: Yes, Your Honor.

2 THE COURT: All right. Not hearing any
3 objection --

4 BY MS. JACKS:

5 Q. Can we have Defendants' Exhibit V9,
6 please? And I think we probably need to go to page
7 2.

8 All right. So Mr. Duran, it's been
9 stipulated to by the Government that the incident
10 that we were discussing occurred on November 14 of
11 2005, at 7:23 in the morning. And we've enlarged a
12 portion of this exhibit. I'm just going to draw a
13 line right here underlining the date of November 14,
14 2005. Do you see that line?

15 A. Yes, ma'am.

16 Q. Okay. And does it show that you were
17 transferred to PNM on that date?

18 A. Yes, ma'am.

19 Q. And what was the time? Let me clear the
20 screen for a second. I'm going to go to the entry
21 just before the one I underlined. Okay? So where
22 were you just prior to your transfer to PNM?

23 A. Lea County Correctional Facility.

24 Q. Okay. And on November 14 of 2005, at
25 12:47 in the afternoon, were you transferred out of

1 Lea County?

2 A. Yes, ma'am.

3 Q. And were you transferred directly to the
4 Penitentiary of New Mexico?

5 A. Yes, ma'am.

6 Q. And what time, according to this physical
7 location history, did you arrive at the Penitentiary
8 of New Mexico on November 14, 2005?

9 A. 12:47.

10 Q. That's actually the time that you left Lea
11 County.

12 A. Oh, 1710.

13 Q. Do you know how to tell military time?

14 A. Yes.

15 Q. And so what time is that? What is 1710 in
16 regular time?

17 A. About 5:10.

18 Q. 5:10 in the afternoon; right?

19 A. Yes, ma'am.

20 Q. And where were you taken, what housing
21 unit were you placed in at the Penitentiary New
22 Mexico on November 14?

23 A. 1-A.

24 Q. And that's PNM South?

25 A. It just says "to PNM."

1 Q. If you look at the entry just above that,
2 does it show where you were housed?

3 A. That's on 11/30, 2005.

4 Q. Actually, that's 11/14/2005, at 1710,
5 until 11/30/2005 at 1327. Do you see that?

6 A. 1-A.

7 Q. So that's PNM South housing unit 1-A; is
8 that correct?

9 A. Correct.

10 Q. And can you tell this jury where you were
11 at 7:23 in the morning on November 14 of 2005?

12 A. Repeat the question.

13 Q. Where were you at 7:23 in the morning on
14 November 14 of 2005?

15 A. In 1-A.

16 Q. No.

17 A. At the South.

18 Q. You were at Lea County Correctional
19 Facility.

20 A. Oh, 11/14?

21 Q. Yeah. You weren't even at PNM when that
22 incident happened, were you?

23 A. When did the incident happen?

24 Q. It's been stipulated it was November 14,
25 2005, at 7:23 a.m.

1 A. So I got there the day it happened?

2 Q. My question to you was: When the incident
3 happened, you were not even at the Penitentiary of
4 New Mexico, were you?

5 A. No. No, ma'am.

6 MS. JACKS: Thank you. I have nothing
7 further.

8 THE COURT: Thank you, Ms. Jacks.

9 Ms. Armijo, do you have redirect of
10 Mr. Duran?

11 REDIRECT EXAMINATION

12 BY MS. ARMIJO:

13 Q. It appears you arrived the day that the
14 incident happened?

15 A. I guess so.

16 Q. And did you ever testify that you were
17 there when it happened, or that Daniel Sanchez told
18 you about it after it had happened?

19 A. Just that he told me that it happened.

20 Q. All right. And was that after the
21 incident itself?

22 A. Yes, ma'am.

23 Q. And I guess since you arrived, since it
24 happened that day, do you recall if people were
25 talking about it in SNM -- were people in SNM

1 talking about it the day that you arrived at PNM?

2 A. There was a lot of tension the day I
3 arrived.

4 Q. All right. In reference to what was going
5 on with you in November and December of 2017, did
6 you stop communicating with the federal authorities?

7 A. Yes, ma'am.

8 Q. And was that because you were fearful of
9 any potential ramifications from the arrest of
10 November 11 of 2017?

11 A. Yes, ma'am.

12 Q. Now, the pictures that -- the different
13 pictures that were shown to you, when you were
14 working with the federal government back there, were
15 you working a money-laundering ring?

16 A. I was trying to get into a
17 money-laundering ring, yes, ma'am.

18 Q. All right. As part of that, tell us about
19 the different characters that we saw pictures of.
20 Who were they and why did you recreate them?

21 A. They're just -- I'm a musician, so I rap.
22 It's just characters that I created over my record
23 label, and a stunt that I sold, working with the
24 federal government.

25 Q. And when you say your "record label," do

1 you own a record label?

2 A. A record label was something that was
3 going to be created between I and the federal
4 government so I could launder money.

5 Q. Okay. And was that part of the operation
6 that you were working?

7 A. Yes, ma'am.

8 Q. Have any charges ever been brought against
9 you regarding your daughter or your wife in
10 reference to what has been questioned about 2017?

11 A. No, ma'am.

12 Q. When you were talking about whooping her
13 ass, did you mean literally, or what is it that you
14 were referring to?

15 A. I was playing. It was a gesture of a
16 joke.

17 Q. All right. As a parent, do you sometimes
18 get mad at your child?

19 A. It's an expression of frustration; doesn't
20 mean that I'm going to do it.

21 Q. All right. Who was "Carolyn" referring to
22 when you were asked questions?

23 A. Carolyn Bueno was a female that I was
24 writing before I got back with my wife.

25 Q. And eventually did you introduce her to

1 Jerry Armenta?

2 A. Yes, ma'am.

3 Q. The shank incident from February of
4 2015 -- I shouldn't say the shank incident -- the
5 incident regarding a correctional officer by the
6 name of Urtiaga. At the time that that happened,
7 had you already contacted STIU in reference to
8 possibly cooperating?

9 A. Yes, ma'am.

10 Q. And was that before you spoke to the FBI?

11 A. The incident?

12 Q. Yes. So in other words, was the incident
13 after you had already contacted STIU but before you
14 talked to the FBI?

15 A. Yes, ma'am.

16 Q. And were you being housed with Robert
17 Martinez and Roy Martinez?

18 A. Yes, ma'am.

19 Q. Are they leaders in the gang?

20 A. Yes, ma'am.

21 Q. Were they -- did you want them to know
22 that you were cooperating potentially with law
23 enforcement?

24 A. No. So I was still acting how I normally
25 would as a gang member.

1 Q. You were asked about if you were here --
2 are you here under subpoena?

3 A. No, I'm on my free will.

4 Q. And have you been -- have there been any
5 promises to force you to be here?

6 A. There has been no promises to me
7 whatsoever.

8 Q. Have there ever been any promises about
9 any possible pending future charges that you have?

10 A. No, ma'am.

11 Q. All right. Ms. Bhalla asked you about a
12 question regarding Mr. Herrera and a green light.
13 And you indicated in your response, "He didn't
14 follow an order by Pup." What is it you were
15 referring to regarding Mr. Herrera?

16 A. When I --

17 MS. DUNCAN: Your Honor, I'm going to
18 object. This is eliciting hearsay.

19 THE COURT: Well, if it's coming from Mr.
20 Baca, why don't you establish that what he's about
21 to say is coming from Mr. Baca. So this is a
22 yes-or-no answer.

23 BY MS. ARMIJO:

24 Q. Is what you're about to say coming from
25 Mr. Baca?

1 A. Yes, ma'am.

2 Q. All right. Did he tell you something
3 about Carlos Herrera?

4 A. He told me something about him? No, he
5 ordered Carlos Herrera to make sure that the Javier
6 Molina hit gotten care of. And when it didn't,
7 that's when he ordered the green light on him.

8 Q. Okay. So --

9 MR. JACKS: Your Honor, we'd ask that that
10 be limited.

11 THE COURT: It will be so limited.

12 BY MS. ARMIJO:

13 Q. When was this conversation?

14 A. In 2013, in the yard.

15 Q. And we know that Javier Molina was
16 eventually killed in 2014; correct?

17 A. Correct.

18 Q. So was this a hit that Mr. Baca had
19 previously put on Javier Molina?

20 A. Yes, ma'am.

21 Q. And was it a hit that Carlos Herrera
22 allegedly did not act on back in -- whenever, prior
23 to the 2013 conversation?

24 A. Yes, ma'am.

25 Q. All right. Now, if someone is in bad

1 standing with the SNM, in order to make things right
2 and maybe get a green light off you, would a person
3 then do as they are ordered in the future?

4 A. Yes, ma'am.

5 Q. In reference to Rudy Perez, you were asked
6 by Mr. Villa about a statement that he made about
7 his walker being used for shanks. Did you have a
8 conversation with Mr. Perez about his walker being
9 used for shanks?

10 MR. VILLA: Objection, Your Honor. I
11 never asked him if he had a conversation about his
12 walker being used for shanks.

13 MS. ARMIJO: I'll rephrase it, Your Honor.

14 THE COURT: Let her rephrase the question.

15 BY MS. ARMIJO:

16 Q. In response to a question by Mr. Villa,
17 your response had something to do with the fact that
18 you had a conversation with Mr. Perez involving
19 shanks and his walker. Do you recall that question
20 and your answer?

21 A. Yes, ma'am.

22 MR. VILLA: Objection. It's outside the
23 scope of cross.

24 THE COURT: Overruled.

25

1 BY MS. ARMIJO:

2 Q. What is it -- what is the conversation
3 that you had with Mr. Perez that you were referring
4 to with Mr. Villa?

5 A. I was expressing to his attorney why he
6 was in a wheelchair.

7 Q. No, but I'm asking you now about the
8 conversation that you had with Mr. Perez. What did
9 Mr. Perez tell you about his walker and shanks?

10 A. He told me that they had took away his
11 walker because they made it -- because they thought
12 that he made shanks out of it for the Javier Molina
13 murder. And that's why he was in a wheelchair.

14 Q. All right. And --

15 MR. JACKS: Your Honor, we'd ask that that
16 be limited.

17 THE COURT: These statements by Mr. Perez
18 are just limited to your deliberations as to Mr.
19 Perez, not to the other three defendants.

20 BY MS. ARMIJO:

21 Q. And did anyone, prior to getting ready for
22 your trial testimony this week, ever ask you about
23 Rudy Perez and any statements that you have made
24 with him or if you knew him?

25 A. No. Actually, I never really got

1 debriefed on all the knowledge I had about the SNM.

2 So it just came up.

3 Q. All right. When you were specifically
4 asked about Rudy Perez?

5 A. Yes. Yes, ma'am.

6 Q. And do you know every single SNM member
7 that has ever been part of SNM?

8 A. No, ma'am.

9 MS. ARMIJO: May I have a moment, Your
10 Honor?

11 THE COURT: You may.

12 BY MS. ARMIJO:

13 Q. Sorry, one other area. Okay. Ms. Duncan
14 asked you and played a portion of Exhibit Number 324
15 in reference to killing Marcantel and Anthony Baca
16 saying something to the effect of -- a portion of
17 that call where he said, "Not Marcantel." Do you
18 recall that?

19 A. Yes, ma'am.

20 Q. When was that recording in relationship to
21 the recordings that -- a lot of the recordings that
22 we heard today?

23 A. The very, very beginning, like the first
24 one.

25 Q. All right. At some point in time did --

1 was -- do you know how much later Marcantel was put
2 into the hits?

3 A. Not far after.

4 Q. All right. Back in 2013, when you had
5 your conversations with Anthony Baca, did you -- was
6 Marcantel specifically mentioned?

7 A. Yes, ma'am.

8 Q. And even if you were not in the same pod
9 as Anthony Baca, were you still able to converse
10 with him?

11 A. Yes, ma'am.

12 MS. ARMIJO: I have nothing further.

13 THE COURT: Thank you, Ms. Armijo.

14 MS. DUNCAN: Your Honor, may we approach
15 before I do my recross?

16 THE COURT: Do you have something further?

17 (The following proceedings were held at
18 the bench.)

19 MS. DUNCAN: Government's Exhibit 294,
20 what portion the Court had excluded -- you had
21 excluded Bates No. 6015.

22 THE COURT: This is what?

23 MS. DUNCAN: This is Government's Exhibit
24 294, one of the ones that you had limited.

25 THE COURT: I don't think I have my notes

1 here. I'll try to turn these into an order. Since
2 most of the exclusions ended up being ones that are
3 going to go to the exhibit that's going in to the
4 jury rather than what was played here in court, I
5 don't have my yellow tags.

6 MS. ARMIJO: Did you want something
7 included in?

8 MS. DUNCAN: No, I don't want a
9 reference -- that is out. I'll probably not deal
10 with it and do it later. I have my notes. Your
11 Honor, it's not worth the Court's time. I just
12 won't get into it.

13 THE COURT: It may be in the vestibule. I
14 was going to try to put these into an order, the
15 rulings I made. I don't have the packet here at the
16 bench anymore. Okay. Which portion are you wanting
17 to use?

18 MS. DUNCAN: It was on page 2015, where
19 Eric Duran was talking to Anthony about this earlier
20 order to Lazy, so it starts off --

21 THE COURT: I have on them 294, that it's
22 page 616. This is the one where I --

23 MS. DUNCAN: I think you excluded 616, and
24 I'm wondering about 615.

25 THE COURT: I don't think I -- let me ask

1 this, Ms. Armijo. I made some rulings on this, but
2 I left you with 615. Did you play 615?

3 MS. ARMIJO: No.

4 THE COURT: Did you play anything on 613,
5 14 and 15?

6 MS. ARMIJO: Exhibit numbers?

7 THE COURT: No, these are all related to
8 294.

9 MS. ARMIJO: I don't have 294 with me
10 right here. I can go get my notes.

11 THE COURT: Why don't you, because I might
12 want to redact off those three pages, as well.
13 These are the ones where you got back up after I'd
14 already made my ruling and suggested three more
15 pages. And I didn't -- I have not reviewed those.

16 MS. ARMIJO: I only played 618 to 619.

17 THE COURT: Say that again.

18 MS. ARMIJO: 618 to 619.

19 THE COURT: Okay. Here's what I would
20 like to do, since I can correct this. After Ms.
21 Duncan got up, I went back and looked at pages 613,
22 614, and 615. And large portions of those are
23 statements that Duran made and Baca did not adopt.
24 And I don't have those pages in front of me. But I
25 did look at it.

1 So what I would suggest is that we redact
2 those pages. If I need to give you specifics on
3 those pages, I can. But if I'm going to do that, do
4 you want to go back into this?

5 MS. DUNCAN: Here's my issue, Your Honor,
6 is that Mr. Duran is testifying now that Mr. Baca
7 told him about this hit on Lazy, but in this
8 conversation that was Mr. Duran, he's telling Mr.
9 Baca about it. So --

10 THE COURT: So you want to use something
11 on 615?

12 MS. DUNCAN: That's what I was thinking
13 about. But I don't want to waive our objection to
14 the rest of this coming in, because it is hearsay.

15 THE COURT: Let me do this: Do you
16 have -- well, I'll have to look at it with a little
17 more care. But redact 613, 614, then I won't redact
18 615. You can withdraw your objection to 615. What
19 do you think?

20 MS. DUNCAN: Counsel has abandoned me.
21 Yes.

22 THE COURT: Is that the way you want to do
23 it? All right. So I'll order the redaction of 613,
24 614, since they weren't played. After I went back
25 and relooked at them, I thought large portions of

1 those were statements that Duran made and Baca
2 didn't adopt. Are you withdrawing your objection?

3 MS. DUNCAN: Your Honor, never mind. I
4 think if you're going to take out the whole thing --
5 otherwise, I'm worried we're creating a weird
6 record.

7 THE COURT: So 613, 614, and 615 will be
8 redacted. If you want me to pinpoint, I can.

9 MS. ARMIJO: That's okay. We got it, Your
10 Honor.

11 MR. JEWKES: Your Honor, if we might --
12 everybody finished? We heard the revelation for the
13 first time this afternoon that Mr. Duran was
14 involved in some type of money laundering scheme,
15 yet we've received no information -- I mean, no
16 discovery in that regard.

17 MS. ARMIJO: Your Honor, that's -- they
18 knew that he was working for the FBI over there.
19 However, that's an ongoing investigation. I have
20 never seen it. I don't think -- I think with all of
21 his stuff, it's come to a standstill. So it's
22 certainly a secret. But given the nature of the
23 photos is why the type of investigation that came
24 out. But certainly the defense has always known
25 that he was over there working for the FBI. The

1 only thing that came out today was what type of
2 investigation it was. But it's still an ongoing
3 large-scale operation by the FBI that he has been
4 cut out of.

5 MR. JEWKES: Do we know for a fact that he
6 was working for the FBI or on his own?

7 MS. ARMIJO: He was working for the FBI.

8 MR. JEWKES: In a money-laundering
9 operation?

10 MS. ARMIJO: Yes, that's the type --

11 MR. JEWKES: And will they provide you
12 with any overnight discovery?

13 MS. ARMIJO: Probably not.

14 MR. CASTELLANO: We're not going into the
15 investigation. He's aiding the investigation, not
16 the subject of the investigation.

17 MR. JEWKES: We understood that he was
18 taken off the FBI roll, so to speak.

19 MR. CASTELLANO: Remember, initially in
20 the prior hearings, he had a warrant out of El Paso,
21 and that was outstanding. So as a result of the
22 warrant, they decided to not use him for a time
23 until that warrant got cleared. So that was
24 actually part of the reason he wasn't working,
25 because of the outstanding El Paso warrant. That is

1 part of a prior proceedings.

2 MS. ARMIJO: That was disclosed.

3 MR. JEWKES: So it's your understanding
4 that this money-laundering operation was ongoing in
5 Oregon?

6 MS. ARMIJO: And other states.

7 MR. JEWKES: And they have not spoken to
8 your case agent, Agent Acee, about this and briefed
9 them on what's going on?

10 MR. CASTELLANO: I don't know what Agent
11 Acee knows about it. But I know that Mr. Duran was
12 handed off as an informant to the FBI in the
13 northwestern part of the country. I don't think he
14 was working for Agent Acee anymore, since it was
15 handed off to the handlers.

16 MR. JEWKES: But you have no documentation
17 on this?

18 MR. CASTELLANO: We're not part of that
19 investigation. It's another district's
20 investigation.

21 MR. JEWKES: Have you made a request?

22 MS. ARMIJO: No.

23 MR. CASTELLANO: He's aiding; not the
24 subject of the investigation.

25 MR. JACKS: In an attempt to rehabilitate

1 this witness, the Government purposely brought out
2 that these photographs or this Facebook persona was
3 part of that investigation. We have absolutely no
4 discovery or no information that that's actually
5 true. And if it's not true, we're certainly
6 entitled to show it. And I think we need immediate
7 discovery of whatever information the Government has
8 or can obtain regarding what the purpose and what
9 the investigation was, and whether those Facebook
10 photos were part of that investigation. Because
11 that's the impression we're leaving the jury with.

12 MS. ARMIJO: I think he testified that
13 there was more for his record label, as well, and
14 that it goes back, and some of those photos are old.
15 I don't think it was strictly for them. Certainly
16 he certainly was working on a money-laundering
17 investigation and creating a persona. But I don't
18 think --

19 THE COURT: I do think that because the
20 Government has brought this up, y'all probably need
21 to contact whatever FBI agents there are, that are
22 in charge of this operation, and if it's a closed
23 operation, and review whatever they give you for
24 Jencks, Giglio, and anything else, and see if any of
25 it needs to be turned over. All right.

1 (The following proceedings were held in
2 open court.)

3 THE COURT: All right. Ms. Duncan, you
4 have recross?

5 MS. DUNCAN: Just briefly, Your Honor.

6 THE COURT: Ms. Duncan.

7 RECROSS-EXAMINATION

8 BY MS. DUNCAN:

9 Q. Ms. Armijo asked you about the threats you
10 made against Sergeant Urtiaga. Do you remember
11 that?

12 A. She asked me about the incident, yes,
13 ma'am.

14 Q. And you talked about being housed with
15 Robert and Roy Martinez at the time; correct?

16 A. Yes, ma'am.

17 Q. And you didn't want anyone to know that
18 you were cooperating?

19 A. Yes.

20 Q. So you were playing along?

21 A. Yes, ma'am.

22 Q. But in addition to threatening Sergeant
23 Urtiaga's life, you blurted out his home address,
24 correct, or what you believe is his home address?

25 A. I didn't blurt out nothing. Those are

1 allegations against me.

2 Q. Allegations that Mr. Urtiaga made;
3 correct?

4 A. Yes, ma'am.

5 Q. And you told Urtiaga, Sergeant Urtiaga,
6 you'd gotten that information from your girlfriend;
7 correct?

8 A. I did not make any statements to him.

9 Q. And at the time, your girlfriend was
10 Carolyn Bueno; correct?

11 A. Yes, ma'am.

12 Q. And Carolyn Bueno used to work for
13 attorney Ron Bell; correct?

14 A. Yes.

15 Q. And Ron Bell is an accident attorney in
16 Albuquerque?

17 A. Yes, ma'am.

18 Q. And Mr. Urtiaga had been represented by
19 Ron Bell; correct?

20 A. Yes, ma'am.

21 MS. DUNCAN: I have no further questions,
22 Your Honor.

23 THE COURT: Thank you, Ms. Duncan.

24 Mr. Villa.

25 MR. VILLA: Thank you, Your Honor.

1 THE COURT: Mr. Villa.

2 RECROSS-EXAMINATION

3 BY MR. VILLA:

4 Q. Mr. Duran, you just testified when Ms.
5 Armijo asked you about the statement Mr. Perez made
6 concerning his walker. Do you remember that?

7 A. Yes, sir.

8 Q. And you told Ms. Armijo that back in this
9 conversation you had with Mr. Perez in the yard
10 during the shakedown, was he said that his walker
11 was taken away because they thought it was used to
12 make shanks for Molina; right?

13 A. Yes, sir.

14 Q. And Ms. Armijo asked you if you'd ever
15 really been asked about Mr. Perez before February
16 18, before this weekend, and you said no; right?

17 A. Yes.

18 Q. But you were asked about Mr. Perez on
19 February 18 of this year, this weekend, weren't you?

20 A. Asked about him?

21 Q. Yes, sir.

22 A. No, not that I recall.

23 Q. So are you telling me that on February 18,
24 2018, you didn't meet with Agent Thomas Neale and
25 Ms. Armijo?

1 A. Yes. Yes, sir.

2 Q. And you didn't discuss the meeting you had
3 with Mr. Perez out in the yard in 2015?

4 A. No, I don't recall that.

5 Q. If I showed you a report of that, would
6 that help refresh your recollection?

7 A. Yes, sir.

8 Q. May I approach?

9 THE COURT: You may.

10 BY MR. VILLA:

11 Q. Mr. Duran, just look at this to yourself.
12 This is an FBI report, February 18, 2018; right?

13 A. Yes, sir.

14 Q. And at the bottom, can you read that last
15 paragraph just to yourself, please? And this report
16 indicates that the United States Attorney,
17 Ms. Armijo, met with you; right?

18 A. Yes, sir.

19 Q. At the top, about your expected testimony?

20 A. Yes, sir.

21 Q. And Agent Thomas Neale wrote this report?

22 A. Yes, sir.

23 Q. So you remember now that just three days
24 ago you had a meeting with Ms. Armijo and FBI Agent
25 Neale, and you were asked about Mr. Perez?

1 A. The primary discussion was about Mr. Baca.
2 So I forgot that conversation, that I had mentioned
3 that.

4 Q. So was that the first time, then, that you
5 were asked about Mr. Perez?

6 A. That's the first time I had mentioned it,
7 yes.

8 Q. In response to Ms. Armijo's questions on
9 her redirect examination, you said you'd never been
10 asked about Mr. Perez before, didn't you?

11 A. Did I?

12 Q. Well, let me ask you this question:
13 Before February 18, 2018, were you asked about Mr.
14 Perez?

15 A. Yes.

16 Q. Okay. And the question I have for you is
17 that in those previous times that you were asked
18 about Mr. Perez, you never mentioned this
19 conversation that you had with Mr. Perez in the
20 yard, did you?

21 A. No.

22 Q. And you never mentioned on February 18,
23 2018, that Mr. Perez said his walker was taken away
24 because they thought it was used to make shanks, did
25 you?

1 A. No, sir.

2 Q. It doesn't reflect that in this report,
3 does it?

4 A. No.

5 MR. VILLA: That's all the questions I
6 have.

7 THE COURT: Thank you, Mr. Villa.

8 Ms. Bhalla.

9 MS. BHALLA: Yes, Your Honor. Thank you.

10 THE COURT: Why don't we do this: We've
11 been going for a while. I know it's a little early,
12 but we've gone past a break time. Why don't we take
13 up Mr. Duran's recross in the morning?

14 All right. I appreciate everybody's hard
15 work. We'll see you back at 8:30. Sorry for so
16 many interruptions, but you got a little exercise
17 today, if nothing else. I appreciate your patience
18 and your hard work.

19 All rise.

20 (The jury left the courtroom.)

21 THE COURT: All right. Y'all have a good
22 evening.

23 MS. DUNCAN: Your Honor, we need to
24 admonish the witness.

25 THE COURT: All right. Mr. Duran, you're

1 on the stand right now, so don't talk to anyone
2 about your testimony or what's occurring here in the
3 courtroom. Okay?

4 THE WITNESS: Yes, sir.

5 (The Court stood in recess.)
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
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2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 4th day of February, 2019.

13
14 
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